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# THE SOUTHWESTERN SOCIAL SCIENCE QUARTERLY

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## SOME INTERNATIONAL PROBLEMS ARISING FROM WATER DIVERSION ON THE UNITED STATES- MEXICAN BOUNDARY\*

BY CHARLES A. TIMM

*The University of Texas*

As the Nile gives life to Egypt, so are the waters of the Rio Grande and the Colorado necessary to the prosperity and the development of large areas in the United States and in Mexico. To mention the "Magic Valley" of the Rio Grande and Imperial Valley of the Colorado is to name two whose inhabitants number several hundred thousand and whose property values run into the hundreds of millions of dollars. Such intensive development is the result of the diversion of water from these two international streams and its use upon rich lands that otherwise would lie wasted or would at most support scattered ranches. Such a situation has naturally raised international questions of considerable magnitude and delicacy. It is my present purpose merely to outline some of those problems, leaving their more exhaustive treatment to later studies.

The rivers, including tributaries, that form the water boundary between the United States and Mexico and thus give rise to international problems are the Colorado, the Rio Grande, and the Tia Juana. The last-named is of small consequence. In view of the arid or semi-arid nature of their basins these streams caused no particular concern until the beginning of the present century, when railroads penetrated their valleys and intensive agricultural development, especially on the United States side, began to make such demands upon the water supply as to make it quite evident

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\*This article represents a preliminary survey of a portion of a larger study of all the United States-Mexican boundary problems. The study is being undertaken with the assistance of the Bureau for Research in the Social Sciences of The University of Texas. C. T.

that the two states, if trouble were to be avoided, would find it necessary to define their respective rights and to work coöperatively in the effort to regulate the water flow and control its use.

In the case of the Rio Grande intensive development began shortly after the St. Louis, Brownsville and Mexican Railroad was built to Brownsville in 1904.<sup>1</sup> The rich soil, combined with a semi-tropical but salubrious climate and an abundance of cheap labor, soon made the lower valley of the river the scene of one of the most marvelous agricultural developments to be found in the United States. Within twenty-five years nearly 200,000 people were living in the Magic Valley, over 350,000 acres were under irrigation, and property values had climbed to \$300,000,000. Within the same period of time the values in the lower Colorado had reached the total of a half-billion dollars.<sup>2</sup>

Insofar as water supply, present uses, and lands irrigated and irrigable are concerned, the situation regarding the streams may be summarized. The drainage basin of the Rio Grande covers 177,500 square miles, slightly over half being in the United States, which furnishes, however, less than half of the water. In the whole river basin almost 1,700,000 acres are under irrigation, 1,400,000 acres being in the United States. Below Fort Quitman 800,000 acres are under irrigation, 70 per cent being in Texas. Available records indicate that Mexico supplies from the Conchos, the Salado, the San Juan, and lesser tributaries 70 per cent of the river yield below Fort Quitman, whereas Texas uses 70 per cent of the water devoted to irrigation. It is believed that the maximum of safe development, without river regulation, has been reached. By proper conservation, 1,600,000 acres of new land in the river basin could be irrigated.<sup>3</sup> Needless to state, the situation has become critical in view of Mexican developments, new Texas projects, and flood dangers.

The Colorado presents, in important respects, a sort of counterpoise to the Rio Grande when it comes to international negotia-

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<sup>1</sup>*Hearings before the Committee on Foreign Affairs, House of Representatives, on H. R. 8371, Apr. 17, 1924, 68th Cong., 2d sess., pp. 20ff. Cited hereafter as *Hearings*.*

<sup>2</sup>*Report of the American Section of the International Water Commission, United States and Mexico, 1929. 71st Cong., 2d sess., H. Doc. No. 359, p. 52. Hereafter cited as *Report of the American Section*. Many annual and special reports of the Reclamation Service and the U. S. Geological Survey deal with these two rivers.*

<sup>3</sup>*Report of the American Section, pp. 316, 317.*



tions. Its basin, covering about 240,000 square miles, lies almost entirely in the United States, which supplies all the water of the river. Of the present irrigated area of 2,600,000 acres, only 190,000 are in Mexico. It is estimated that, were water available, a total of 8,500,000 acres would be ultimately irrigable, less than 2,000,000 of which are in the latter state.<sup>4</sup> It will be observed at once that the Rio Grande above El Paso presents problems similar to those that have arisen in respect of the Colorado. However, the Colorado is of relatively greater importance than the Rio Grande. The water resources of the basin of the former are 20,000,000 acre-feet, whereas those of the Rio Grande are only 7,700,000 acre-feet.<sup>5</sup> It may be asked if this matter of relative economic importance, not to mention the greater political *weight* of the Colorado area, will play a part if and when the United States finds it necessary to make concessions to Mexico.

The Tia Juana is only 17 miles long, is of intermittent flow, and is of primary importance as a source of water supply for San Diego—city and county—and Tia Juana. Any further reservoir construction will require international coöperation.<sup>6</sup>

As has been suggested, the situation in respect of the two major streams became acute within the past decade. The limit of safe irrigation on the Rio Grande had been reached, and the Texas communities were face to face with the fatal consequences of a possible Mexican development. In 1926 the Texas Board of Water Engineers adopted the administrative policy that no more permits for irrigation from the Rio Grande or its tributaries would be granted unless provision in each case would be made for ample storage.<sup>7</sup> In the Colorado River basin the problem had become not only international but interstate, with all the states of the basin making plans for heavy inroads on the water supply for irrigation, power, and municipal consumption. Added to these factors was the serious problem of floods, which, in the case of

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<sup>4</sup>*Report of the American Section*, pp. 85ff.; *Colorado River Development*, S. Doc. 186, 70th Cong., 2d sess., 1929, pp. 41ff. Cited hereafter as *Colorado River Development*.

<sup>5</sup>*Colorado River Development*, as cited, p. 38; *Report of the American Section*, pp. 93, 317. Attention is called to Robert Follansbee, *Water Supply Paper 617*, Geological Survey, 1929. One acre needs from two to three acre-feet of water per year.

<sup>6</sup>*Report of the American Section*, pp. 16, 17, 79-84.

<sup>7</sup>*Report of the American Section*, p. 319.

the Rio Grande, had sometimes covered as much as 300,000 acres<sup>8</sup> and in the Lower Colorado had repeatedly broken through the protective works and threatened the entire Imperial Valley.<sup>9</sup>

The first successful attempt to reach an international agreement on water diversion from the Rio Grande came in 1906 as a result of the fact that developments above El Paso had so depleted the normal flow of the river as seriously to threaten the Mexican development in the El Paso valley. In that year the United States and Mexico negotiated a treaty by the terms of which the United States agreed to deliver 60,000 acre-feet annually to the Mexican users.<sup>10</sup> At the same time, the United States declared that the treaty did not set up a precedent for a claim of right by Mexico.<sup>11</sup>

The next developments of importance came as a result of the insistent agitation by the Lower Rio Grande Valley Water Users' Association and by interests in the Colorado River basin. There was no apparent connection between the two areas, but it was obvious that they would be tied together once the United States and Mexico began serious efforts to reach a general agreement. Meantime the seven states of the Colorado River basin had entered a compact in 1922 looking toward the division and use of the water of that stream.<sup>12</sup> In 1924 Congress passed an act authorizing a study of the Rio Grande below Fort Quitman by a United States-Mexican commission.<sup>13</sup> Mexico, however, would not allow that river to be considered separately; consequently, in 1927, Congress passed an amended act,<sup>14</sup> authorizing the commission to study all three rivers. The next important legislation was the so-called Boulder Dam Act approved December 21, 1928, which

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<sup>8</sup>*Hearings*, p. 25. See also Report of Reclamation Service for 1921.

<sup>9</sup>*Report of the American Section*, pp. 120-124.

<sup>10</sup>Treaty Series, No. 455. Art. I.

<sup>11</sup>Art. V.

<sup>12</sup>*Colorado River Development*, pp. 30-34. This compact was authorized by 42 Stat. 171.

<sup>13</sup>Public No. 118, 68th Cong., 1st sess. Mexico had already created a Board of International Waters and had urged the United States to do likewise. *Hearings*, p. 32. The question was asked in the hearings if the existing Boundary Commission could not do the work, whereupon Chairman Porter replied: "This Mexican Boundary Commission has never performed any useful function that I know of except to draw its salary." *Ibid.*, p. 4. This was an unfair statement; for the Boundary Commission had not the requisite authorization under the treaties. *Ibid.*, p. 33, Secretary of State Hughes to Chairman Porter.

<sup>14</sup>Public Res. No. 62, 69th Cong.; 45 Stat. 1106.

authorized the construction of an enormous storage dam on the Colorado at a cost not to exceed \$165,000,000 and with a storage capacity of not less than 20,000,000 acre-feet.<sup>15</sup> The act contained an approval of the Colorado River Compact and of subsequent interstate agreements.<sup>16</sup>

The impending construction of Boulder Dam, combined with its corollary features of great power development, water supply for cities, and an all-American Canal for irrigation, made it highly desirable to reach an agreement with Mexico covering diversion from all three rivers.<sup>17</sup> Hence, the work of the International Water Commission, as provided by the acts of 1924 and 1927, assumes considerable importance.

The Commission, composed of three Americans and three Mexicans, held three sessions, the first in El Paso and Juarez, during which it made a personal inspection of much of the water boundary, the second in Mexico City, and the third in Washington, D.C. The sessions ran from February 27, 1928, until November 9, 1929. In the course of its meetings the Commission studied every phase of the whole problem so far as satisfactory data were available and made serious efforts to reach agreements that might serve as bases of a treaty, but its efforts were unavailing except in regard to minor points.<sup>18</sup> The points of major interest and greatest diversity of opinion deserve further elaboration.<sup>19</sup> Following the order adopted by the Commission the Colorado will be given first consideration.

The treaty of Guadalupe Hidalgo provided for the boundary to cross and not to follow the Colorado.<sup>20</sup> Consequently, it did not

<sup>15</sup>45 Stat. 1057.

<sup>16</sup>Secs. 13, 19.

<sup>17</sup>*Colorado River Development, passim*. The subtitle reads: *Colorado River Investigations, Water Storage and Power Development, Grand Canyon to the Imperial Valley*. This river has received careful study over a long period of years.

<sup>18</sup>*Report of the American Section*, pp. 2-77.

<sup>19</sup>Since little attention was devoted to the Tia Juana, we may dismiss that stream from further consideration by noting that the Commission accepted the conclusions presented by the Mexican section to the effect that further development, which might be international in character, will require a reservoir at Marron, and that San Diego might proceed with investigations of the feasibility of this project. *Report of the American Section*, pp. 9, 10, 59.

<sup>20</sup>Malloy, *Treaties, Conventions, etc.*, I, 1107. Art. 5.

become a boundary stream until the Gadsden treaty was negotiated. The former treaty did, however, proclaim the theory of its navigability by giving United States citizens free passage through Mexico by way of the river and the Gulf of Lower California.<sup>21</sup> This was repeated in Art. 4 of the Gadsden treaty.<sup>22</sup> However, the treaty of 1884 modified the navigation provisions by securing the common right "throughout the actually navigable main channels of the said rivers."<sup>23</sup> Neither state could construct, without the consent of the other, any work that would impede the right of navigation.<sup>24</sup> In actual practice neither state regards the river as navigable, but Mexico refuses to abandon the legal theory since it offers, presumably, a good diplomatic bargaining point.<sup>25</sup>

Other than navigation and the adoption of the thalweg rule for determining the boundary, the treaties contain no provisions regarding the respective rights of the states to the waters of the river. Nevertheless each state has developed a set of theories bolstering its own claims in the case. The position of each may be summarized. The United States maintains (1) that the principle of the treaty of 1906 may be applied to the Colorado and that, consequently, the United States should have to guarantee to Mexico only that amount of water—about 750,000 acre-feet—needed to take care of existing developments in Mexico; (2) that Boulder Dam will largely solve the flood control problem, as well as the problem of silt deposits; (3) that power development is not a factor in the problem of water division; (4) that surplus water will continue to flow with even greater regularity to Mexico, but use thereof by Mexico can not establish a right to it; (5) that great regulatory works are needed and will benefit both states.<sup>26</sup> It is thus clear that the United States adheres to the principle of exclusive sovereignty of the United States over the water of the Colorado above the boundary, admits, as a matter of comity, the theory of prior appropriation in offering to protect existing Mexican development, and rejects the fiction of navigability of the river.

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<sup>21</sup>Art. 6.

<sup>22</sup>Malloy, I, 1121.

<sup>23</sup>Malloy, I, 1159. Art. 5.

<sup>24</sup>Treaty of 1848, Art. 7. Secretary of State Hughes seemed to believe that this article applied to the Colorado. Letter to Secretary of Commerce Hoover, Aug. 17, 1922, *Report of American Section*, p. 261.

<sup>25</sup>*Report of the American Section*, p. 40.

<sup>26</sup>*Report of the American Section*, pp. 44-46.



On the other hand, Mexico, to judge from the arguments of the Mexican section of the International Water Commission, contends (1) that the Colorado, "being an international stream, the use of its waters constitutes a common wealth for both countries, and that in consequence, in order to deal with its beneficial uses as well as with flood control, this river must be considered as a single geographic unit"; (2) that treaty provisions require both parties to maintain navigability; (3) that, aside from legalities, Mexico admits the paramount importance of irrigation; (4) that irrigable Mexican lands total 1,500,000 acres as opposed to 6,000,000 in the United States, consequently Mexico's share of water will be not less than 3,480,000 acre-feet; (5) that the principle of the treaty of 1906 is not applicable to the Colorado for the reasons that the treaty provided compensation for damages and contained a specific denial by the United States (Art. 5) that it set up a principle, and that the Colorado should be considered as a single geographic unit; (6) that the Boulder Dam project violates treaty provisions, will not effect flood control, and will not solve the problem of silt deposit, citing the Elephant Butte Dam as a case in point; and (7) that power developed on the United States side should be available to Mexican users at no increase in price.<sup>27</sup>

That the United States had certain advantages in this argument becomes evident by an examination of the rejoinder of the American section. As to the alleged inapplicability of the principle of the treaty of 1906, it was correctly held that facts, especially after the construction of the Boulder Dam was authorized, were similar and that if the United States insisted upon the principle of Art. 5, accepted by Mexico, then Mexico could have no legal right to any water of the Colorado. On the subject of navigation, the American section could point to the fact that both governments had ignored the fiction of navigability and that Mexico had even granted rights to divert the entire low-water flow of the river, notwithstanding the navigation rights secured to American citizens. Nor did the United States section make any concession in the allocation of water beyond the previous offer, adding, merely, that the fact of Mexican grants of water to corporations does not establish the right to the water, all of which comes from the United States. No particular comment was made on the subject of flood control

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<sup>27</sup>*Report of the American Section*, pp. 40, 41, 47-49. Sec. 20 of the Boulder Dam act states that the act neither denies nor recognizes any right, if any, Mexico may have in the use of the water of the Colorado.

except that Mexico had not borne its fair share of the cost. The American section did suggest, however, that the Mexican position in regard to power was reasonable.<sup>28</sup>

The whole problem of the Colorado was then referred to a joint committee for study and report. The report did little more than make a re-statement of the positions of the parties. It did, however, go so far as to suggest the abrogation of the theory of navigability and the inclusion in the proposed treaty of provisions on flood control and power use.<sup>29</sup>

It is thus apparent that by adhering to the theory of navigability Mexico retains a bargaining power that the facts of the case do not warrant. Even granting that the treaties forbade only along the boundary portion of the river the construction by either party, without the consent of the other, of works impeding navigation, it is, nevertheless, unreasonable to suppose that the upstream state could in equity divert, within its territory, such an amount of water as to destroy the navigability of the river in its international section, assuming, of course, that the river was actually navigable, which is not the case here. In this respect a navigable stream differs from one that is non-navigable.<sup>30</sup> In this connection it may be noted that Mexico actually protested against the proposed Boulder Dam project and that Secretary of State Hughes advised that, apart from legal rights in the case, "considerations of equity and comity would require that the interests in Mexico in the matter should be fully considered."<sup>31</sup> Furthermore, in spite of the opinion of the Attorney General that taking water from the Rio Grande above El Paso was not prohibited by the treaty,<sup>32</sup> the United States moved under the Act of 1890<sup>33</sup> to prevent private parties from diverting water and was upheld by the Supreme Court.<sup>34</sup> It would seem, however, that the requirements of equity would be met by a settlement on the basis of the treaty of 1906. In short, it is the principle of prior appropriation as set forth by the Supreme Court in 1922 in the case

<sup>28</sup>*Ibid.*, pp. 54-58.

<sup>29</sup>*Ibid.*, pp. 64-69.

<sup>30</sup>Hyde, C. C., *International Law*, I, 313-316.

<sup>31</sup>*Report of the American Section*, pp. 257-259, 261-265. This angle of the case probably accounts for sec. 20 of the act.

<sup>32</sup>21 Op. Atty.-Gen., 276-278.

<sup>33</sup>26 Stat. 454.

<sup>34</sup>*U. S. v. Rio Grande Dam and Irrigation Co.*, 174 U. S. 690. This decision led to the Elephant Butte project under governmental control. Mexico's interests were secured by the treaty of 1906.

of *Wyoming v. Colorado*.<sup>35</sup> At any rate, the United States cannot afford to ride rough-shod over Mexican claims in the Colorado case; for in the lower Rio Grande the facts are somewhat reversed.

In considering the Rio Grande it is advisable to begin, as in the case of the Colorado, with the pertinent treaty provisions. The same treaties—those of 1848, 1853, and 1884—apply. A fourth, that of 1906, deals with the distribution of water above Fort Quitman. Article 5 of the treaty of 1848 makes the middle of the deepest channel the boundary line along the international portion of the river, and Art. 7 secures freedom of navigation on the same portion to the vessels and citizens of both countries and forbids the construction by either without the consent of the other of any work “that may impede or interrupt, in whole or in part, the exercise of this right, not even for the purpose of favoring new methods of navigation.”<sup>36</sup> The last paragraph of the latter article, since it has given rise to differing interpretations, may be quoted in full: “The stipulations contained in the present article shall not impair the territorial rights of either Republic within its established limits.” Article 4 of the Gadsden treaty abrogated the 6th and 7th articles of the treaty of 1848, but, so far as the Rio Grande is concerned, specified that the terms of Art. 7 should remain in force below the new boundary line.<sup>37</sup> The treaty of 1884, as has been stated in the discussion of the Colorado, restricted somewhat the right of navigation by saving it “throughout the actually navigable main channels of the said rivers.”<sup>38</sup> The fourth treaty, that of 1906, has already been summarized, so far as delivery of water to Mexico is concerned. It should, in addition, be noted that by Art. 4 of the treaty Mexico waived all claims to the water between the head of the Mexican Canal and Fort Quitman. The two parties do not agree regarding the interpretation of this provision.<sup>39</sup>

As in the case of the Colorado, the chief problems of the Rio Grande and the major positions of the two governments may best be gathered from the records of the International Water Commis-

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<sup>35</sup>259 U. S. 419.

<sup>36</sup>Malloy, I, 1107.

<sup>37</sup>Malloy, I, 1159.

<sup>38</sup>Malloy, I, 1159.

<sup>39</sup>For correspondence leading up to this treaty, see Appendix 11, *Report of the American Section*, pp. 386-419.

sion in its 1928-1929 sessions. So far as possible both governments relied on treaty provisions and on principles of international law as bases for their contentions. The essential geographic and economic facts regarding the river have already been stated; hence we may proceed at once to a summary of the arguments of the parties.

For its part the United States held (1) that by the treaty of 1906 all water reaching Fort Quitman belongs to the United States; (2) that existing developments and uses below that point should be perpetuated by a treaty on the principle of priority of beneficial use; (3) that the unused flow should be regulated by reservoirs, the cost and benefits to be shared equally; and (4) that the theory of navigability should be abandoned. The significant points in the Mexican position were as follows: (1) The waters of the main stream will be shared equally only after each country has fully developed its tributaries; (2) power developed on the main stream should be shared equally; (3) the waters between El Paso and Fort Quitman remained international after the treaty of 1906; (4) the theory that present uses be given priority is not acceptable and is not established in international law; and (5) the navigation sections of the treaties should be canceled when the two governments accept the Mexican recommendations.<sup>40</sup> Needless to say, agreement was reached only upon minor points such as the abrogation of the theory of navigability *as soon as a plan of equitable division of water can be agreed upon*, the gathering of better stream-flow data, and the completion of studies on location and operation of reservoirs.<sup>41</sup>

Clearly the chief concern of the United States is to make secure existing developments in Texas and provide water for future expansion. To accomplish this it is essential to induce Mexico to admit the principle of priority and to join in a program to store the 4,000,000 acre-feet now passing to the Gulf of Mexico each year. It should be borne in mind that in the lower valley some 370,000 acres are being irrigated on the American side and only 3,700 acres on the Mexican side, that Mexico supplies two-thirds of the water, all of which American users must have unless storage be provided, and that, in consequence, any measurable development in Mexico will threaten with ruin whole communities in the

<sup>40</sup>*Report of the American Section*, pp. 60-62, 72-77.

<sup>41</sup>*Ibid.*, pp. 74, 77.



"Magic Valley."<sup>42</sup> Furthermore, Mexico has already constructed a large reservoir on the Conchos, another on the Salado with a capacity of 1,100,000 acre-feet, and is planning one on the San Juan with a capacity of 2,000,000 acre-feet. The suggestion is even made that, the bed of the San Juan being lower than that of the Rio Grande, Mexico could drain the waters of the main stream into the tributary. From an engineering point of view this may be feasible.<sup>43</sup> It is not surprising, therefore, that the situation facing the United States is potentially critical and that this country should urge the theory of prior appropriation.

In presenting this theory for acceptance the United States called attention to the treaty of 1906, which was a clear case of caring for prior Mexican use, and also to other treaties in which this same principle was incorporated. One was the treaty of 1909 with Great Britain concerning the Milk and St. Mary rivers on the Canadian border;<sup>44</sup> another was the French-Italian treaty of 1915 with reference to the Roya River.<sup>45</sup> It was also urged but not proved that Mexican and Spanish law both recognized the rights of prior users. To be specific, the United States proposed that each country should continue to supply water to existing developments in the proportion that each was the source of the water of the main stream. Further developments must depend on storage, the cost and benefits of which are to be divided in the proportion of water contribution, all prior developments having first been cared for. As an inducement, it was suggested that the United States might pay more of the cost in return for more water or else might exchange power for water.<sup>46</sup>

The Mexican position in respect of the Rio Grande is also readily understandable. Mexico, too, has millions of acres of rich soil as yet undeveloped; its tributaries supply nearly 70 per cent of the water of the main stream below El Paso and yet the low flow of these rivers is today being used for the most part on Texas projects; furthermore, Mexico may find it feasible in the course of time to utilize most of the water of its tributaries by building reservoirs on them, thus freeing that state of the necessity of concerting with the United States in the construction

<sup>42</sup>Hearings, p. 11; *Report of the American Section*, p. 24.

<sup>43</sup>Hearings, p. 14. A Texas water engineer expressed doubt as to the facts regarding the San Juan.

<sup>44</sup>Malloy, III, 39.

<sup>45</sup>*Journal Officiel*, Apr. 29, 1915, p. 2698.

<sup>46</sup>*Report of the American Section*, pp. 28, 76.

of an international reservoir in the main stream. This would seem particularly true of the San Juan, which empties into the Rio Grande below Roma, near the head of the lower valley. As a matter of fact, Mexico can afford to wait, whereas time is important to the United States. That the situation has not become more critical for Texas is due to the practical fact that comparatively little land is being irrigated in Mexico. So long as that is true, the construction of reservoirs on Mexican tributaries is an aid rather than a menace to Texas development; for every additional reservoir helps to regulate the flow and remove the danger of floods. At the same time, if Mexican reservoirs can be employed to advantage only in the production of power, then Mexico would find no inducement in the suggestion that the United States might be willing to trade power for water.

Economic facts point to no early agricultural development on the Mexican side comparable to what has taken place in Texas. The soil, the water, the climate, and the labor are there, but the all-important factor of a market is almost completely absent. The production of staples alone will hardly warrant a type of development such as has taken place in Texas. The only feasible market for vegetables and fruits is the United States, but the tariff is a fairly effective barrier to that market. In Mexico the cities are generally small, and the market in Mexico City can readily be supplied by the surrounding areas producing crops under conditions more favorable than would be found on the Mexican side of the lower Rio Grande. Hence it is doubtful if there is any occasion for alarm. The greatest danger in both rivers is that of floods. Meantime Mexico can rest secure in the legal state of affairs and await developments.

A correlation of the positions taken by the two states in regard to both rivers may serve to give a better perspective on the whole problem of water diversion along the boundary. In the case of the Colorado the law and the economic and geographic facts seem to favor the United States, whereas in the case of the Rio Grande the major advantage lies with Mexico, although even here it is undeniably true that the situation above El Paso presents conditions similar to the Colorado. That the United States is fully cognizant of this advantage is seen in the following statement of the American Section of the Commission in its suggestions regarding the Colorado:

The interests of both countries will be served by an early agreement as to the extent to which existing uses of water on both the Rio Grande and Colorado on both sides of the international boundary are to be recognized, but in the absence of such agreement it is believed that the United States should give notice to Mexico that no rights to water in the Colorado based on future development and extension of existing uses, will be recognized until an agreement covering all three streams has been reached.<sup>47</sup>

It is doubtful, however, if the Department of State would be disposed at the present time to act at all arbitrarily in the matter. Furthermore, while the statement just quoted may have the semblance of a threat, it should more properly be construed as a suggestion to trade water in the Colorado for expansion of Mexican developments in return for a larger amount of water in Texas than is contributed by the United States.

By its position, geographic and legal, the United States has found it possible and advisable to be generally consistent in its arguments. In both cases it favors the abandonment of the theory of navigability. In both, while holding to the theory of state sovereignty over resources wholly within state limits, it has, nevertheless, adopted in practice the principle of priority of appropriation for beneficial use in the case of the treaty of 1906, has offered to protect existing Mexican development in Lower California, and has suggested that Mexico do the same in regard to existing developments in Texas. That seems to be the crux of the whole matter. It so happens that the Texas problem is of relatively more importance in the whole Rio Grande picture than the Lower California area is in the case of the whole Colorado basin.

Mexico is consistent at least to the extent of holding fast to the treaty provisions on navigation, although it admits freely that such provisions have no basis in geographic fact, have been constantly violated by both states in both streams, and should be abrogated—if and when the United States sees fit to agree to a legal status favorable to Mexico. That and the geographic features of the Rio Grande below El Paso are the strong points in the Mexican position. Nor, in view of the relatively slight agricultural development in the valleys, is the flood danger so serious

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<sup>47</sup>*Report of the American Section*, p. 23. It should be noted that Acting Secretary of State Cotton, in submitting the report to the president for transmission to Congress, added the following statement: "The American section of the commission in its report expresses views on certain legal and political matters which have not been passed on or approved by this department."

to that country as it is to the United States. When it comes to advancing theories for division of water, Mexico finds it difficult to be wholly consistent. In the case of the Colorado, it proposes an allocation that will take care of all Mexican lands that may be irrigated in the future by a lift of not over 80 feet regardless of the needs for full development in the United States; on the other hand, as to the Rio Grande it suggests that only after *full development* of the tributaries by each country are the waters of the main stream to be shared equally. One is led to ask whether after such full development of tributaries there would be any water in the main stream except in flood seasons, when irrigation is unnecessary. That is largely a question of fact, for the answer to which more data are needed. Furthermore, Mexico emphasizes the importance of treating the Colorado as a source of common wealth and therefore as a single unit, whereas in the case of the Rio Grande it would apparently emphasize the tributaries separately and first, then the main stream. Finally, to deny the principle that priority of use gives superiority of right—a principle that was tacitly admitted by the United States in the treaty of 1906—would seem to deprive Mexico of a sufficient basis for its claim to any water in the Colorado. In acting on its theory, it would, of course, lose in the Colorado but gain in the Rio Grande, causing possible loss of untold amounts to Texas interests. It is not to be assumed that Mexico would, in practice, adopt such an attitude.

So far as the question of water between El Paso and Fort Quitman is concerned, it is not necessary to consider it in detail. The solution revolves upon the meaning of the word *reclamación*, the United States holding that it means the abandonment by Mexico of all claim to use of such water, whereas Mexico contends that it states merely that Mexico agreed not to petition for indemnity in case of losses resulting from use of the water by the United States.<sup>48</sup>

On the basis of this cursory survey it would be presumptuous to suggest a detailed solution that might properly be incorporated in a treaty. At the same time it seems clear that enough common ground can be found to afford a satisfactory basis of agreement. In the end each state will concede something; hence it is merely a matter of determining the maximum of advantage possible for

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<sup>48</sup>*Report of the American Section*, pp. 386-395. Memorandum on Treaty of 1906, by Karl F. Keller.



each in the face of the international character of the streams. Aside from the obviously common problem of flood control, each will wish to protect existing uses and provide as large a margin as possible for future expansion. Since the supply of water is limited, neither will be able to take care of all future needs—for irrigation, power, and municipal purposes—even if storage prevents any waste. For an indefinite time in the future, agricultural and industrial development will move faster in the United States than in Mexico. Since that is true, it is feasible for Mexico to exchange water that it can not and will not use for compensations elsewhere, possibly in the form of money payments or of the assumption by the United States of a relatively greater cost of international flood control and storage works. Possibly both forms of compensation might be used. Aside from that, it seems feasible even in the face of the great needs of the seven states of the Colorado basin, for the United States to offer Mexico more than the suggested 750,000 acre-feet should Mexico agree to give security to the "Magic Valley" of Texas. That Mexico could do this and still—granting sufficient reservoirs—take care of its own economically sound agricultural development in the Rio Grande valley for many years to come appears wholly practicable and need not require the *perpetual* grant of its water resources.<sup>49</sup>

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<sup>49</sup>The present article presented no occasion or, for lack of space, opportunity to discuss such topics as the effects of the federal structure in the United States and Mexico upon the problem, a comparison of laws on water rights as found in Mexico and the states of the United States, and the theory of perpetuity of water rights as found in the original Spanish grants. It is the purpose of the author to investigate these and related problems. For the situation in Texas see especially Hildebrand, I. P., "Rights of Riparian Owners at Common Law in Texas," *Texas Law Review*, 6:19-49. Somewhat related to the subject of the present article is Hawkins, Wallace, "Water Rights in Texas Interstate and Boundary Streams," *ibid.*, 9:501-518. A good survey of the history, powers, and work of the Texas Board of Water Engineers, by F. Joyce Cox and David Weintraub, is in *ibid.*, 7:86-102, 245-257, and 8:238-251.

## EXPERIMENTAL AGRICULTURE ON THE SPUR RANCH, 1885-1904\*

BY W. C. HOLDEN

*Texas Technological College*

The Spur Ranch in Texas, located in Garza, Kent, Crosby, and Dickens counties, was owned and operated from 1885 to 1907 by a British syndicate with a home office in London. During the time the ranch had three resident managers, S. W. Lomax, 1885 to 1889; Fred Horsbrugh, 1889 to 1904, and Henry Johnston, 1904 to 1907.

Experimental agriculture on a scientific basis began on the ranch in Dickens County in 1885. From the time of his first visit to Northwest Texas in 1879, Lomax believed that the country had agricultural possibilities. In this respect he was at variance with nine cattlemen out of ten at the time. The great majority of them held that this region was a grazing country, that crops would never grow successfully west of Fort Worth, and that the surest way to ruin the country was to turn the sod upside down. *The Taylor County News* emphatically declared in June, 1885, "The idea that this part of Texas will ever be an agricultural country is a great joke of huge proportions." Had Lomax grown up in the country, he might have had the conventional point of view; but being a man of broad interests, and not a cowman by rearing, he saw latent possibilities in the soil in spite of the arid reputation of the country.

Along with all the activities connected with organizing the ranch in 1884, such as acquiring land, fencing, stocking with cattle, constructing buildings, and looking for buyers, Lomax found time to have 150 acres of land put in cultivation. In the spring of 1885 he started experimentation with feed crops, and in December invited the Commissioner of Agriculture, Norman J. Colman, of President Cleveland's administration, to visit the ranch:

I would esteem it a favor if you would send to me at Docums,  
Dickens County, Texas, such a quantity of alfalfa seed as you can

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\*The records of the Spur Ranch were donated in 1928 by Mr. Clifford B. Jones, present manager of the Spur properties, to the Library of Texas Technological College. The records are not published, but are bound and in good condition. Of greatest value in the collection are the twelve letter books of approximately five hundred pages each. Besides the letter books are the payrolls, day books, journals, ledgers, supply books, and tally books.

send. We wish to try it next season on our hay farm; and finding it impossible to get good seed by ordinary means, we apply to you. I notice your remarks before the Dairymen's convention of Chicago, and read them with interest. I shall look for your annual report, and the references therein on the subject of Texas fever with much interest. I am spending most of my time now on the ranch, and wish I could induce you to come down and pay us a visit. I can promise to show you a range of over 500,000 acres and as fine cattle as you would see on Missouri farms, with Hereford and Shorthorn bulls. We have made over 300 tons of hay on our hay farm this year, consisting of Johnson grass, millet, and sorghum, and I am now disposed to experiment with alfalfa.<sup>1</sup>

The alfalfa experiment fared badly, and Lomax was never "disposed" to try it again; but learning what not to plant was next to being as valuable as learning what to plant. He selected an unusually dry year to make the trial, however, as 1886 was so drouthy that the ranch scarcely made seed from any of the crops planted. The next year was no better.

Undismayed by two crop failures, Lomax was as enthusiastic as ever in carrying on experiments in the spring of 1888. He began ordering his supply of seeds as early as January. At the same time he wrote the *Stock Journal* at Fort Worth:

I would like to know if any of the feeders down your way use sorghum, and if so, about what quantity they feed an animal per day, and what do you think of it yourself? It seems to be the only sure thing in the way of feed this country will produce; and I am anxious to hear what results have been got on it as a feed.<sup>2</sup>

Lomax was already planning to make a practical use of his experiments. If sorghum in a normal year could be successfully raised on a large scale, why not use it to fatten the beef herds and sell directly to the packers instead of to the grazers in the Northwest or to the feeders in the corn belt? With such a system the profits of the ranch ought to be considerably increased.<sup>3</sup>

He was not content to pin all of his faith on sorghum; at least, there might be other things that would do as well or better—no one could tell until they had been tried. He had read where plants known as kaffir corn yielded 50 bushels per acre in Kansas under poor rainfall conditions. He had also seen references to milo-maize, aspersette and teosinte, and wrote to everyone he could

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<sup>1</sup>Spur Records, I, 70.

<sup>2</sup>Spur Records, II, 91.

<sup>3</sup>Spur Records, III, 166, 190; IV, 458.

hear of who had tried these plants. Again he wrote the United States Commissioner of Agriculture:

I will be much obliged if you will furnish me with a small quantity of seed of a new forage plant which is described to me as "Teosinte." I shall be glad to have the report on the value of sorghum as a sugar producer, as we have had most satisfactory success in growing it here. I think that all large proprietary ranches have got to grow feed that will carry this beef cattle through the winter without shrinkage, and have them in shape to fatten on early grass, and I am much interested in the new forage plants, concerning which I have seen much in the paper.<sup>4</sup>

Lomax had continued breaking new land until by the spring of 1888 he had approximately 900 acres in cultivation. Some 800 acres were broadcast in sorghum. On the rest of the land the company tried out kaffir corn, milo-maize, and rice-corn. The sorghum yield was disappointing—925 tons, or a little over a ton to the acre. The sorghum was cut twice during the season. The harvesting was done by means of mowers and rakes. The experiments with the kaffir corn and milo-maize were fairly satisfactory, but the rice-corn was a failure.<sup>5</sup>

The manager experimented in gardening on a rather extensive scale in 1888. He employed a man and his wife to devote their full time to gardening, milking of 12 cows, and butter making. The man assisted with the milking, but devoted about three-fourths of his time to the garden. The gardening was purely an experiment, for Lomax had little idea which vegetables would grow and which would not. There was an unusually good spot of ground for a garden at headquarters with a spring and a good well for partial irrigation. No detailed account is given as to the success of the project, but in August, Lomax proudly packed a box of specimens of field and garden products and sent it to the London office.<sup>6</sup>

By the fall of 1888, Lomax began to get inquiries from persons elsewhere about the results of his experiments. On September 8, 1888, he wrote Ralph Barton of Corsicana, Texas:

Your postal of the 1st. inst. at hand inquiring about sorghum seed used by us, and in reply would say that we have been using the "Black Amber" for three years, and find it well adapted to

<sup>4</sup>Spur Records, II, 195.

<sup>5</sup>Spur Records, II, 250, 265, 303, 323, 363, 366, 391; II, 496, 493; IV, 496, 474, 344.

<sup>6</sup>Spur Records, II, 515, 536.



our long dry summer. I tried this last spring for the first time a little of the "Early Indian," and it has done very well, fully as well this season as the "Black Amber." We sow broadcast three pecks to the acre. I prefer the sorghum as forage to millet; stock of all kinds do well on it, and are very fond of it. I do not think it is as good a feed if allowed to mature as if cut when the seed heads are in the dough. We get two cuttings each season off our planting.<sup>7</sup>

With 925 tons of sorghum to feed during the winter of 1888-1889, the first feeding experiment on a large scale was possible. A letter to the London office September 21, 1888, explained the method to be tried:

In feeding sorghum to the cattle in this climate very little shedding is required; the principal thing is to protect the cattle from the north wind, the quarter from where our cold weather mostly comes. At our present sorghum farm, where we intend to feed this winter, there is a considerable grove of oak trees with thick undergrowth. This of itself will afford sufficient protection, and here it is intended to feed out the sorghum without any sheds. In other cases where natural protection does not exist, the necessary shedding would not cost much, as the sheds would consist of long "dug-outs" made by ploughs and horse scrapers in a bank facing south and could be covered by roofs of rough timber, cottonwood branches, and earth. It is at present intended that the sorghum shall be fed on the ground, the soil and climate being so dry as to allow of this. Of course, if this is not found feasible, long racks can be erected at a small cost. It is calculated that four men with two hay wagons will be able to do the feeding through the winter. Of course, the cattle will not be tied up, as the sorghum is only intended as an auxiliary to the grazing which they will get in the pasture where they are fed. The success of the whole venture depends on our ability to feed, in a paying manner, a large body of cattle in a wholesale fashion; and though the proportionate gain will not be so large as that on a small number of cattle tied up in a shed and fed according to orthodox methods, yet I am confident that the result will show that we can make a profitable business out of growing sorghum and feeding it roughly in this wholesale way. We had a fair crop this year, but in ordinary years we should have a larger yield, as this year we were of necessity a little late in getting to work; besides, it is a sod crop, the sowing and breaking of the prairie being simultaneous; next year the crop should be much larger.<sup>8</sup>

Forty acres of the sorghum crop in 1888 were allowed to mature and was thrashed for planting seed the next year.

<sup>7</sup>Spur Records, II, 564.

<sup>8</sup>Spur Records, IV, 353.

With a good season in the ground in January, 1889, Lomax started farming operations for the year early. Through January, February, and March the breaking plows lost no time. A new farm of slightly over 200 acres was opened on the Parrich place. In all, approximately 1,000 acres were cultivated that year. The amount of land planted in sorghum was about the same as the year before. In addition, there were 105 acres of Johnson grass, and 100 acres in milo-maize, 15 acres in oats, and 10 acres in barley. Although the kaffir corn experiment of the year before did very well, milo-maize was considered more practical; and there is no record of the ranch's ever trying kaffir corn again.<sup>9</sup>

Growing conditions were usually good during the year. The sorghum, which the year before had grown only about three feet high, grew taller than a man's head. It was so rank that the men had a great deal of trouble cutting it. Lomax had decided to experiment with some new harvester—self-binders they were called. The machines were purchased from a firm in Dallas with the proviso that they were to cut successfully and bind the feed stuff four feet high. When the sorghum grew over six feet, trouble was encountered. The self-binders had to be put aside, and the feed cut with the self-rakers used the year before.<sup>10</sup> The year's crops were estimated at 1,500 tons of sorghum, 2,000 bushels of milo-maize, 400 bushels of oats, and 300 tons of baled Johnson grass—all with a total selling value of approximately \$12,000.<sup>11</sup> However, very little of it was sold. A thrasher and a crusher, whose power was provided by eight horses, were purchased in December, and the grain was thrashed and crushed for feeding on the ranch.<sup>12</sup>

Aside from the new binders, only two experiments were tried in 1889, one with a new forage plant, and the other with the relative values of sorghum and milo-maize as cattle feeds. The plant tried out was prickly confrey. Of it, Horsbrugh wrote:

I am sorry to say I do not think much of the plant. It had of course received a considerable set-back from having been damaged by hail, but at best it is only a rough forage plant with leaves something like dock leaves, or those of the tobacco plant. It is in a very rich piece of ground, and has received extra attention, but at

<sup>9</sup>Spur Records, I, 111, 122, 166, 229, 244, 286; IV, 266, 255, 250.

<sup>10</sup>Spur Records, IV, 246, 192.

<sup>11</sup>Spur Records, IV, 174, 176.

<sup>12</sup>Spur Records, IV, 112, 113, 158.

present it is only a foot high and does not look as if it were healthy. Anything that needs irrigation can never be of much value to us as a horse or cattle food.<sup>13</sup>

The feeding experiment indicated that sorghum was better than milo-maize as a cattle food; however, milo-maize was better for horses.<sup>14</sup>

In the summer of 1889 the Board of Directors inquired if irrigation could not be made practical on the ranch. Horsbrugh replied:

This, I thought you understood, is out of the question here as we have not the principal requisite, water. The water in the streams here for the most part sinks in the sand, and only runs to any great extent after rains, when the streams get up in flood and wash out fences and give as much trouble as ordinary rivers would; but it is not for long as they subside very rapidly, and water is to be found only in holes. What is needed for irrigation is a steady flowing stream with flat country on both sides of it. Duck Creek would do very well for this if it had a steady flow of water, but it sinks in the sand during dry seasons, the very time when irrigation water would be needed.<sup>15</sup>

During 1890 and the years that followed farming operations were carried out on approximately the same scale as in 1889. About 1,000 acres were planted in feed stuffs each year. Horsbrugh had small feed fields of 15 to 20 acres each put in at two or three of the line camps. This saved the hauling of sorghum and milo-maize from the feed farms for the horses of the line riders through the winter.<sup>16</sup> In 1890, Horsbrugh had more milo-maize and less sorghum planted. He was becoming a strong advocate of milo-maize. One of the directors failed to share his enthusiasm, and Horsbrugh stoutly defended the plant:

I note in your last letter that you consider the yield of milo-maize very small compared with wheat in Scotland; it undoubtedly is, but it must be remembered that in some parts of Scotland is found the highest type of farming in the world. I hope next year to get a higher yield per acre of the valuable grain; as in this country it is necessary to find out some grain that will stand drouths and I have seen milo-maize doing well when corn and oats were dried out. The maize turns out a wonderful good feed, and the horses that are being worked on it are doing better than was

<sup>13</sup>Spur Records, IV, 204-205.

<sup>14</sup>Spur Records, IV, 190.

<sup>15</sup>Spur Records.

<sup>16</sup>Spur Records, IV, 204.

expected . . . I am glad to say it does not take nearly so much seed as you suppose. In fact, it is very peculiar in this respect; it only takes a bushel to fifteen acres, put in with a corn planter.<sup>17</sup>

A ranchman at Monterey, Mexico, heard of the Spur Ranch's success with milo-maize and wrote for some seed and instructions as to how to raise it. Horsbrugh wrote:

I am sending you a small amount of seed by mail. The quantity is enough to seed two acres, as it takes a bushel to fifteen or seventeen acres, put in with a planter; you can put it in rows four feet apart. Be careful not to get it in too thick, and cultivate it like corn; it makes a big growth for so small a grain. Before you gather it in the fall, let it stand until you are sure it has dried out completely, as it will heat when piled up otherwise. I send you three little sacks full by mail; the postage just about takes the dollar you sent; I will charge you nothing for the seed.<sup>18</sup>

In 1891 a new experiment was made—cotton. Horsbrugh planted 50 acres. The yield was fair, but in view of the fact the cotton had to be hauled over 60 miles to a gin, Horsbrugh became convinced it could not be raised profitably unless the company had its own gin. Consequently, the next year the ranch installed a gin outfit—an unheard thing for a ranch to do in the cow country. Three bales were ginned that year, and the three sold for \$76 after having been hauled to Colorado City. A complete crop failure occurred in 1893, and in 1894 five bales were ginned. It was a rather unfortunate time to purchase a gin—eight bales in three years. Horsbrugh continued trying to make a go of the cotton business until 1901. Each year the cotton and gin account showed a deficit, which was charged to the profit and loss account. The time had not yet arrived when cotton would be grown profitably. Five and six cents a pound did not pay when cotton had to be hauled from sixty to a hundred miles to a railroad.

Beginning in 1890, Horsbrugh started experimenting with fruit trees and continued the practice until the drouth of 1903. He sent for all the publications of the Federal government on fruit tree culture, and on several occasions he mentioned in letters to the London office that he was studying fruit trees. He tried various varieties of peaches, apples, apricots, plums, pears, berries, and grapes. The results on the whole were disappointing. Drouths were hard on the trees; parasitic growths were prevalent; and

<sup>17</sup>Spur Records, VI, 101.

<sup>18</sup>Spur Records, VI, 409.



frequent warm spells in February followed by cold waves in March often caused the trees to bloom early and the fruit to be killed in the bud later. The average life of a fruit tree was not over five years, and if it managed to yield one crop of fruit before it died, it was fortunate.<sup>19</sup>

The company usually employed from 4 to 30 men per month on the farms. In 1889 the number averaged 17 a month for the whole year. The most of the farm hands received \$25 per month; a few were paid \$30, and the foreman got \$75. In the late 90's, Horsbrugh began the policy of renting out a part of the land previously worked by the company, and the number of farm hands employed correspondingly decreased.

When about 1900 the Espeula Company began its policy of buying out settlers who had homesteaded school lands inside the Spur pastures, the ranch came into possession of a number of partially improved farms. As a rule each settler had built a small one- or two-room boxed house on his place and had put from 40 to 60 acres in cultivation. The company rented the farms acquired in this way to farmers. As the ranch got a third of the feed stuffs, the ranch's supply of grain and forage was considerably increased.<sup>20</sup>

The first years of agricultural experiments on the Spur ranch were devoted to the finding of plants that would best withstand drouths and wind. After it was found that Johnson grass, sorghum, and milo-maize were best adapted to the soil and climate, the ranch concentrated largely on these crops, and the experiments took a different form—the finding of methods of cultivation which would insure the largest yields. The managers tried and kept records of various ways of breaking, seeding, and tillage. They hardly thought of themselves as being pioneers in the “dry land farming,” but they were doing a work similar to that later taken up by the state experiment stations.

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<sup>19</sup>Spur Records, VIII, 255.

<sup>20</sup>Spur Records, X, 226.

## THE FEE SYSTEM AS A METHOD OF COMPENSATION FOR THE TEXAS COUNTY OFFICIALS

BY S. B. McALISTER

*North Texas State Teachers College*

The fee system as applied to county and district officers in Texas has its origin partly in the Constitution and partly in legislative statute. The bulk of the system owes its existence to legislative approval. Indeed, the Constitution might be so interpreted as to give the Legislature the authority to destroy the fee system, root and branch, without any constitutional change. The Constitution mentions only seven county and district officers in connection with their compensation. It provides that the county treasurer and county surveyor "shall have such compensation as may be provided by law."<sup>1</sup> Clearly there is no reference to the fee system here. In referring to the county clerk and sheriff, the Constitution states that their "duties, perquisites, and fees of office shall be prescribed by the Legislature."<sup>2</sup> Does this mean that the Legislature is to determine what fees these officers are to charge for the services of their offices, or does it refer to the fees to be retained for official compensation? It might be interpreted either way. It does not say that the county clerk and sheriff must be paid in fees, nor does it deny the Legislature the right to provide salaries for these officers.

The strongest case for the fee system as a creature of the Constitution is found in connection with the county judge<sup>3</sup> and the county and district attorneys.<sup>4</sup> The former officer is to receive as compensation "such fees and perquisites as may be prescribed by law." As interpreted by the Legislature and as generally applied, this clause does not mean that the compensation of the judge must be taken from money collected by him as fees, since the law provides that in certain cases he is "to be paid out of the county treasury."<sup>5</sup> Nor does it deny the Legislature the right to authorize a salary since in a certain instance the law provides that the county judge "shall receive such salary from the county treasury

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<sup>1</sup>Art. XVI, Sec. 44.

<sup>2</sup>Art. III, Secs. 20 and 23.

<sup>3</sup>Art. III, Sec. 15.

<sup>4</sup>Art. III, Sec. 21.

<sup>5</sup>*Revised Civil Statutes of Texas*, 1925, Art. 3926, p. 1057.

as the commissioners' court may allow him by order."<sup>8</sup> If it be assumed that the constitutional statement, "He shall receive as compensation for his services such fees and perquisites as may be prescribed by law," requires the fee officer to be paid in fees and that it forbids payment by salary, then our county judges are in part paid under the provisions of an unconstitutional statute.

In regard to the county and district attorneys, the "Legislature may . . . make provision for the compensation of district attorneys and county attorneys; provided district attorneys shall receive an annual salary of five hundred dollars, to be paid by the State, and such fees, commissions, and perquisites as may be prescribed by law. County attorneys shall receive as compensation only such fees, commissions, and perquisites as may be prescribed by law."

Excepting the five hundred dollars salary which the district attorney receives for the services which he renders the State, this clause means about the same as that which relates to the county judge. The Legislature has interpreted this section as applying only to the officeholder—not to his deputies or assistants—thus eliminating one of the chief purposes for the existence of the system; namely, that the one who receives the benefits of the service pays the expense of rendering it. In fact, the average district attorney's office does not collect enough fees to meet the expense of the office. In order to harmonize this basic theory of our fee system with those offices which do not collect enough fees to pay their necessary expenses, we must interpret the Constitution as meaning that the fee officers are to be paid by the job or for the particular service rendered, regardless of whether any fees have been collected for this particular service. This interpretation assumes that the fee offices can be supported by money derived from sources other than fees. Indeed, the Constitution nowhere says that the fee officers must be paid with money derived from fees, nor does it specifically deny the Legislature the authority to substitute salaries. If we can assume that the Legislature is an agent of reserved powers and can exercise all powers not forbidden it, then we can assume that the present fee system exists by virtue of legislative favor. There is *nothing* to restrain the Legislature from putting the tax assessor, the tax collector, justice of the peace, and constable on a salary basis; and since the compensation of the sheriff and county clerk is not mentioned in the Constitution, only their duties and the amount which they can

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<sup>8</sup>*Ibid.*

charge for their services being mentioned, these officers may be placed in the same category. Should this be done, we would have in our fee system only three officers, namely, county judge, county attorney, and district attorney. We now have ten officers supposedly paid from fees.

The Legislature laid the structural foundation for our present fee system in 1876. Since then it has added to or taken from this structure no less than two dozen times. But despite these numerous changes, the system has grown more and more out of date. The tremendous increase in the wealth of the State, the great expansion of governmental activities and functions, and the new inventions—especially the automobile—have brought about great discrepancies in the application and the structure of our fee system. The Legislature has worked on the theory that there is nothing wrong inherently in the fee system itself; consequently, few of its changes have been of a vital nature. For example, little thought has been given to extending the system to new offices, or to eliminating from the system offices that have once been placed within it. No doubt this lack of thought has been due to our ignorance of and general lack of interest in county government as a whole. Not until recently were there any noticeable efforts made to throw a little light on this phase of the "Dark Continent" of American government.

In 1929, the second called session of the Fortieth Legislature appointed a committee of two Senators and three Representatives, headed by Pink L. Parrish of Lubbock, to investigate the workings of the fee system.<sup>8</sup> This committee held hearings in something over a dozen counties in Texas, where evidence was taken under oath. The report of the committee as submitted to the Legislature showed that under the laws as then existed, many county officers were not required to make detailed reports of the fees received, and in counties of less than 25,000 inhabitants, no account of fees collected was required. In some counties the pay of many fee officers reached staggering sums. Some officers admitted under oath that they drew more than \$22,000 per year net. Some counties had as high as \$200,000 daily balance in trust funds, the interest on which certain officials were keeping. And in certain instances, some officials were getting extra pay for work which should have belonged regularly to the office. For

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<sup>8</sup>*House Journal, 4th Called Session, Texas Legislature, p. 59.*



example, in some counties the county auditor was receiving extra pay as purchasing agent.

According to this committee, many people were receiving pay for services performed years before. One official was drawing pay for services rendered in 1892, and another "last year, in addition to the pay for the present office, received as compensation \$900 for services performed in another office during prior years."

Delinquent taxes furnished the basis for much "honest graft." For example, some counties were paying seventy-five cents per tract for names of delinquent owners; other were getting the same service for twenty cents. Some county attorneys received fifty cents for each notice mailed. In many instances the district clerk got more than the amount of taxes sued for. In several counties the commissioners' courts had contracted with individuals or corporations to collect delinquent taxes where the county or district attorneys had refused to collect them. Since the suits had to be filed in the names of these officers, they received their fees although they had done none of the work. In addition to these fees, the individual contractor sometimes received as much as  $33\frac{1}{3}$  per cent of the amount collected. One county had let a contract for \$65,000 for making a map system to show the delinquent property locations. The contractor hired one man at \$200 per month, who, with two stenographers, did the work in eighteen months, and during this time the contractor collected city taxes, for which he received a 10 per cent commission.

In submitting the report of this committee to the Legislature, Governor Moody, among other things, said:<sup>9</sup> "While the fee system may stimulate the activity of the officers, its evils far outweigh the advantages gained by this added activity. The provisions of the Constitution make it impossible to abolish the fee system in this State, and any attempt to amend that provision would be bitterly opposed by practically every officer who is now compensated through the fee system. (Governor Moody had prior to this time been a district attorney.) Many citizens would vote against such amendment with the misapprehension that under the fee system the violators of the criminal law are made to pay the cost of supporting our public officers. A more mistaken notion was never abroad in the land. . . The fees of office in felony cases are paid by appropriations from general revenues, and the general revenues are raised by taxation. The fees of the tax assessors

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<sup>9</sup>*House Journal, 4th Called Session, Fortieth Texas Legislature, p. 24.*

and collectors are likewise raised through the imposition of taxes. The present fee bill has been patched up and changed here and there to give a man here and one yonder more fees, until it is difficult for a lawyer to read the statute and understand it."

Acting on the recommendations of the Governor and the legislative committee, the Legislature passed the so-called Maximum Fee Bill which became effective with the beginning of the year 1931.<sup>10</sup> This bill provided for a general overhauling of the entire fee system, and attempted to make effective the recommendations of the investigating committee. Among other things the new law named the following county and district officers who were to be governed by its provisions: county judge, sheriff, county clerk, county attorney, district attorney, justice of the peace, and constable. In counties of less than 37,500 inhabitants, the maximum which any of these officers is to receive is \$4,500 per year; in counties having a population of more than 37,500 but less than 75,001, the maximum is \$5,500; where the population is between 75,001 and 150,000, the maximum is \$8,000; and in counties of more than 150,000, the maximum is \$12,500 per year, except in counties having a population between 325,000 and 345,000, where the maximum allowed is \$10,000 per year.<sup>11</sup>

These maximum fees are composed of three elements. The officer is to retain a definite amount of fees without regard to any excess. These amounts range from \$2,000 for the justice of the peace and constable in the smallest counties, to \$3,500 for the county judge, sheriff, and county attorney in the largest counties. Until these amounts are reached, the officers can keep all fees collected. If the total fees collected be more than enough to pay this amount plus the salaries of deputies and assistants, the surplus is deemed excess fees. In counties of less than 75,001 inhabitants, the officers can keep all the excess fees up to \$1,250; where the population is between 75,001 and 150,000, the officers can keep all the excess up to \$3,000; in counties of more than 150,000 population, the fee officer can keep all excess fees until his total compensation amounts to \$12,500. The one exception to this last statement is Dallas County, where the maximum allowed is \$10,000. If after providing for these amounts any fees remain, the officers in the counties of less than 37,500 population can keep

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<sup>10</sup>Vernon's *Annotated Revised Civil Statutes of the State of Texas*, 1930, Cumulative Annual Pocket Part, Vol. 12, p. 14.

<sup>11</sup>*General Laws, 42nd Legislature, Reg. Session*, p. 870.

one-fourth of the remaining surplus until this amounts to \$750; in counties of from 37,500 to 75,001 inhabitants, the officers can keep one-fourth of the remaining fees until the amount is \$1,250. In the next tier of counties, those with populations ranging from 75,001 to 150,000, the officers can keep one-fourth of the excess above \$3,000 until this together with the \$3,000 excess plus the definite amount mentioned above totals \$8,000. The other three-fourths of the excess above the amounts allowed for office expense goes into the county treasury. All fees of all officers are to be accountable in determining these maximums.

In addition to determining the maximum compensation for the officeholder, the law also determines the maximum for the deputies and assistants. In counties with less than 37,500 population, the maximum for chief deputies is \$1,800; other assistants, \$1,500. In counties having a population from 37,500 to 100,000 the maximum for chiefs is \$2,100; heads of departments, \$1,800; others, \$1,500. Where the population is between 100,000 and 125,000, the fees are \$2,700, \$2,400, and \$1,800 for chiefs, heads, and others. From 125,000 to 275,000, the compensation allowed is \$3,300, \$2,700, and \$2,400. Above 275,000 population, the maximums are \$4,200, \$3,000, and \$2,400. The number of deputies and assistants to be used, and their ranking as chiefs, heads of departments, etc., are to be determined, in most instances, by the commissioners' court. But, after setting these maximums, the law enigmatically provides that 50 per cent of any further number the court authorizes may receive \$2,500, and the other 50 per cent may receive \$2,100 per year. The joker of the maximum fee bill seems to be in the section providing for the deputies. It makes it possible for any office to eat up practically all fees collected regardless of what amount this might be. This can be done in either one of two ways: First, add on more deputies until all the surplus fees are used up; second, raise the rank of those in the office until most of them are chiefs or heads of departments, then pay the maximum allowed for these higher ranks.

The provisions of the law dealing with the compensation of the officers and their deputies are so scattered, tangled, and confused that it is difficult for a layman to tell with certainty what they mean. Because of this we can expect many of the county officers to make mistakes in interpreting the law. An example of a scattered and tangled phase of the law is that dealing with the compensation of prosecuting attorneys. Those provisions dealing with

the pay of these officers are found in no less than six articles,<sup>12</sup> and even in the same article one may find an utter lack of consistency. Thus, in article 3886 we find that attorneys in counties with over 150,000 inhabitants are limited to \$6,000 per year plus allowable excess fees, while attorneys in counties with less than 150,000 population shall receive only \$8,000. They are to be paid from fees of office. These officers can appoint without anybody's authorization assistants, stenographers, and investigators with salaries totaling \$35,400, and "the salaries of assistants, stenographers, and investigators . . . shall be paid monthly by the said county, by warrants drawn upon the general funds thereof." If the attorney needs more help, he can appoint it with the consent of the commissioners' court, but "salaries for such additional assistants and employees shall be paid monthly out of the excess fees collected by such attorney." Then in the same article we find that "the commissioners' court may employ not more than one assistant at a salary not to exceed two hundred and fifty (\$250) dollars per month for the purpose of assisting the county attorney in performing his duties with reference to the collection of delinquent taxes, which salary shall be paid out of the county general fund."

Thus we find in one article four separate and distinct clauses providing compensation, under two sets of authorization from two wholly separate sources, for the officers and their deputies. When we try to read this article in relation to the other five providing for the attorneys' compensation, we are impressed with the intricacies of the law. Added to this are the confusing special fee laws. For example, "in any county having a population of more than 10,040 and less than 10,050," a certain officer with a certain compensation may be designated.<sup>13</sup> Any reasonable interpretation would declare this type of legislation void. But of such material are our fee laws necessarily composed. Because of the existence of this myriad of special fee laws it is difficult to make any general statement relative to the fee laws that is applicable to every county.

Another provision of the Maximum Fee Law cares for those officers who fail to collect the maximum amount of fees for any fiscal year and report delinquent for that year. The law gives

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<sup>12</sup>*Vernon's Annotated Civil Statutes, op. cit.*, Arts. 3883, 3886, 3887, 3891, 3892, 3902, 3902B, 3902D.

<sup>13</sup>*Vernon's Annotated Civil Statutes, op. cit.*, Art. 3902C.



these officers the privilege of receiving these delinquent fees and of applying them to their own salaries provided they are collected during their term of office or within one year after they leave the office.

The law further provides that every officer is to make a sworn statement at the end of each fiscal year to the district clerk. This statement is supposed to give a detailed account of the affairs of the office. The form for the report is determined by the State Auditor. One copy of the report is sent to the State Auditor and another is given to the county auditor if the county has an auditor, and if not, it is given to the commissioners' court. Thus, we see the State Auditor, district clerk, county auditor, and commissioners' court designated as the special watchdogs of the Texas fee system. Despite all these safeguards a private audit is sometimes felt necessary.<sup>14</sup>

This law which was to reform our fee system went into effect in 1931. How has it worked? The reports of our fee officers for the past year show certain well-defined trends. In the first place, the accountable compensation of the fee officers as a whole shows a substantial increase. In the larger counties the new law has lowered the compensation of two or three officers, notably the tax collector, district attorney, and sheriff, but has increased the salaries of others, so that the total increase is greater than the total decrease. The amount of increase in accountable fees is, roughly speaking, proportionate to the population of the county.<sup>15</sup>

In the second place, a study of the reports of the fee officers shows that the new law does not give the biggest compensation to the officer who does the most work. As a rule the tax collector is paid almost twice as much as the district clerk, yet from the standpoint of hours of work done by the officers and the technical knowledge required for efficient handling of the office, the latter officer should receive almost as much as the former.

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<sup>14</sup>One of the most recent thorough private audits of county finances in Texas was that made by Dallas County in 1931-1932.

<sup>15</sup>The compensation of the fee officers in Collin County, a county of 46,000 inhabitants, showed an increase of approximately eighteen per cent in 1931 over that of 1930. Dallas County, a county of 335,000 population, showed an increase of 170 per cent. The compensation in 1930 did not include the unaccountable compensation. However, the total for 1931 is approximately eleven per cent more than the total of both the accountable and unaccountable fees received by these officers in 1930. These figures are taken from the auditors' reports.

A smaller amount of fees is returned to the county under the new law than there was under the old. This is true even in those counties where the total fees collected in 1931 were greater than those collected in 1930. Thus in Dallas County, in 1930, six of the major fee officers collected \$538,069.67 in fees;<sup>16</sup> \$52,976.05 was returned to the county. In 1931 these same offices collected \$556,247.76, but returned to the county only \$35,213.42. The Tarrant County treasury received 49 per cent less from five of its major fee officers in 1931 than it received in 1930. The Collin County treasury received 63 per cent less. With the exception of the tax collector's office, the sheriff's office, the county and district attorney's office, the outgo of our fee officers just about balances the income.<sup>17</sup> The bulk of the expense is for the compensation of the officeholder and his assistants or deputies. The amount spent for deputy hire is limited only by the commissioners' court. Since the office is a political one, there is a natural tendency for the officeholder to employ as many assistants as possible, since these would give him strength on election day. This tendency is further enhanced by the fact that if the money collected above the amount allowed for the officeholder's compensation does not go for deputy hire or office expense, it must be turned over to the county treasury—a much weaker source of votes than a group of live assistants.

The per capita collection of fees by our fee officers varies somewhat in proportion to the size of the county. In the larger counties the per capita collection is about two dollars. This amount decreases to about one dollar in the smaller counties.<sup>18</sup> Between 90 and 95 per cent of the fees collected are ordinarily used for the expenses of the county fee offices. In the larger counties the district attorney's office is likely to take more out of the county treasury than all the fee offices combined put into it.

The fee system makes our offices quasi-private institutions. The officeholder, knowing that his income from the office depends largely upon what he can make out of it, considers it somewhat

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<sup>16</sup>County clerk, assessor, collector, sheriff, district clerk, and attorney.

<sup>17</sup>For example, the county clerk's office in Dallas County in 1931 used up all of the \$113,693.97 collected except \$649.82, which was returned to the county. The tax assessor of Tarrant collected \$47,918.20 in 1931, all of which the office used except \$410.60. Out of \$7,091.80, the assessor of Johnson County had only \$0.83 left.

<sup>18</sup>Dallas County, with a population of 335,000, collected approximately \$700,000 in fees; Collin County with a population of 46,000, collected about \$50,000.

as a private possession. After a period of years in such work, an officer is likely to feel that he has almost a vested right in the county business which has been serving him so long in a private capacity. To give a man all he can make out of a public office tends to subordinate the public functions of the office to the private interests of the individual. This must necessarily be so as long as men hold public office for the compensation involved. Undoubtedly compensation on the basis of the fee system causes the officer to be more diligent in collecting the fees, but there is a question as to whether it makes him more diligent in rendering efficient public service.

## THE KANSAS SWEDES

BY C. TERENCE PIHLBLAD

*University of Missouri*

This paper is meant to be a preliminary report on a study which the writer hopes to complete more thoroughly in the near future. Its purpose is to describe, in terms of some general observations, the cultural assimilation of a group of Swedish people in central Kansas. These observations are merely tentative and suggestive and will have to be substantiated by more complete investigation later. The study has been suggested by a number of recent books and monographs on the historical background of the Swedish immigrant and his assimilation in Swedish-American communities in the United States.<sup>1</sup>

A word should be said, by way of introduction, concerning the sources of information available for an investigation of this kind. The records of the Lutheran churches give fairly complete data concerning population composition, family organization, etc., from the time of the earliest settlement to the present. Since the great proportion of the people are Lutheran, such data will be an adequate sample of the entire community. The minutes of the annual meetings of the congregations and of the church conferences are available, as well as the constitutions and records of the land companies. Files of the 23 newspapers and periodicals published during the life of the community are available in local libraries or in the State Historical Library. College catalogs, bulletins, and records are also available, through which much of the history of the community can be traced. A number of secondary sources furnish a fairly accurate historical background for the study, such as Dr. Bergin's community history,<sup>2</sup> several congregational histories, and the books and plays of G. N. Malm,<sup>3</sup> which contain excellent descriptions of character types and communities during the pioneer stage of development.

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<sup>1</sup>Stephenson, G. M., *Religious Aspects of Swedish Immigration*; Janson, Florence, *Backgrounds of the Swedish Immigration*; Rosenquist, Carl, *The Swedes of Texas* (unpublished).

<sup>2</sup>Bergin, Alf., *Linsborg, En Svensk Amerikansk Kultur Bild Från Mellansta Kansas*.

<sup>3</sup>Malm, G. N., A novel depicting the Swedish pioneer in the West called *Charli Johnson*, a play called *Härute*. Also numerous newspaper articles and articles published in periodicals on similar subjects.



The Swedish people in Kansas are scattered in a number of different communities located in the east, central, north central, and northwestern part of the state. By far the largest number are concentrated in McPherson and Saline counties. For this reason and because the Lindsborg community is a sort of center of Swedish culture in the state, the study will be concentrated here. This central settlement lies in the Smoky Hill Valley, occupying an area about 35 miles in length, between the cities of Salina on the north and McPherson on the south. The width is about one-half the length. At the present time about 12,000 people of Swedish ancestry live in this area. The central point is the town of Lindsborg with about 2,000 people. It includes also about six other communities and villages, some of them open country churches. The communities near the center of settlement are almost solidly Swedish; those toward the periphery contain a large proportion of people of other origin, mostly of the old American stock.

The Kansas Swedes were a part of the emigration from Sweden which swelled to such huge proportions during the latter part of the sixties and the seventies. The conditions underlying this immigration were about the same as those common to the sections of Sweden from which large numbers came to find homes in the United States. What the causes underlying this particular immigration were will have to be dealt with later when time and space permit. Many of the settlers came to Kansas directly from Sweden; others had lived in the United States a short time before their coming to Kansas, most of them in Illinois and some in Michigan. Of the 200 families belonging to the "First Swedish Land Company" half came directly from Sweden, the other half from Chicago. Most of the members of the Galesburg Land Company came from Illinois. While the settlers in the Smoky Valley came from many parts of Sweden, the nucleus of each community had its origin in some one province and generally came from groups of neighboring parishes. Thus the Lindsborg Swedes came from Vermland in West Central Sweden. Based on a study of 200 individuals, 22 parishes appear most frequently as the birthplace of these people. All of these parishes lie within an area about 50 miles in diameter, and most of them are not more than 20 miles apart. Two central parishes are mentioned most frequently as the origin of this group. Another group, living in the Fremont settlement, came from Smaland, principally from

two parishes there, about four miles from each other. In Assaria we find that Blekinge, again with two principal parishes, furnishes most of the immigrants. This seems to substantiate what Professor Rosenquist found to be true in Texas,<sup>4</sup> that the desire to emigrate, the "America fever" as it was called, seems to originate in certain central communities, where it is most intense, and then spread to neighboring communities where its influence is less marked. The later immigrants were much more scattered in origin, and represent no one particular province or section in the old country. This tendency for the immigrants to settle in neighborhoods in this country corresponding to the place of origin has given a certain color to community life in America, which distinguishes each of the Kansas parishes or church communities, one from another. Thus the Assaria group belonged originally to the Salemsborg parish, but separated from it rather early. The reason given was distance from the church. Probably the real reason was the fact that one group came from Smaland, the other from Blekinge. The Vermland group, settling in Lindsborg, carried their religious strife and dissention and deep pietism with them into their settlements. These characteristics have been absent in neighboring communities which had this tradition less strongly from the home land. This point could be elaborated further with some substantiating evidence.

The first immigrants from Sweden came into Smoky Valley in 1868.<sup>5</sup> These were young single men who walked from Junctions City, the nearest point on the railroad, to take up homesteads in this area which had just been opened for settlement. Several of them had served in the Union Army and had received certain land rights on the basis of their military service. They were followed in 1869 by a much larger group under the leadership of Dr. O. O. Olsson, a Lutheran preacher from the province of Vermland. This was an organized group under definite leadership and incorporated as "The First Swedish Land Company of Chicago." This second wave of immigration consisted in large part of family groups. Land had been bought through the land company, a sort of communistic organization, from the Union Pacific Railroad. Some of these people came directly from Vermland, Sweden. Others had

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<sup>4</sup>See Rosenquist, *The Swedes in Texas*.

<sup>5</sup>See Miller, W. E., "*The Peopling of Kansas*," Ph. D. Thesis, Columbia University, 1906.

been in Chicago and other Illinois communities a short time. Another land company, called "The Galesburg Company," came shortly thereafter, settling its members west and north of the Lindsborg group. These people came largely from Smaland, in east central Sweden. The Assaria, Salemsborg, Fremont, and Marquette communities grew out of this latter group. After this wave of immigration, new families continued to come in for the next two decades, although the immigration was fairly complete by 1880. With this rather sketchy historical background, I should now like to describe briefly some of the cultural changes which have taken place among these people in their struggle to accommodate themselves to the conditions as they found them in their new home. This process of assimilation may, perhaps, be traced through changes in their material culture, in family life and organization, in religion, in language, and in leisure-time activities.

#### *Material Culture*

In matters of making a living and in economic organization adjustment to American conditions was most rapid. Many of the early settlers had been miners and metal workers before they came to this country, and it has been alleged that they had somewhat greater difficulty as farmers than did the others who had been agriculturists before they came. The style of farming in Sweden of the sixties was entirely unadapted to Kansas conditions, requiring the cultivation of much larger land areas, and with entirely different climatic and physiographic conditions from those found in Sweden. There is none of the survival of Swedish patterns in arrangement of farmstead, methods of stacking hay and grain, etc., which are said to survive even to the present time in certain parts of Minnesota and Canada. It would be difficult to find any essential differences in the economic organization of these Swedish communities from any pioneer American settlement on the Kansas plains. In clothing and shelter the Swedes were quick to take on the patterns which they found. The early homes were log cabins or dugouts common to all the pioneer settlements. In one case a hut built of planks, on the Swedish pattern, was immediately torn down to be replaced by the better protected dugout, after the builder had found an American family living in such a shelter in his neighborhood.

In matters of clothing also the prevailing modes of dress were not different from those worn by the non-Swedish people. The

desire to be like Americans in matters of clothing is manifested by the experience of the writer's grandmother. Her last dollar, on arriving in Kansas City, was spent for the purchase of a hoop skirt in the American style. Pictures from the early period indicate that there was little to distinguish the Swedish immigrant from non-Swedish people.

In general, it may be said that in seeking food, shelter, and clothing the Swedish immigrant immediately adopted the patterns he found in America. The considerable number who had lived for a time in Illinois were, of course, already familiar with them.

#### *Marriage and the Family*

Most of the immigrants were young mature men and women at the time of their arrival. Many of them were married; others married shortly after their arrival in America. In many cases the men came first and later sent for their wives and children. The family in the first generation was large; eight, ten, or twelve children were not uncommon, and one of the prominent families in the community had fifteen. A superficial scanning of the records seems to show that families in the second generation are considerably smaller than those of the early settlers. This will be investigated more completely.

Family organization, in general, was not unlike that prevalent in Sweden or western Europe, or even in America at the time. Certain marriage patterns, such as betrothal customs, relatively free sex relations between the betrothed, associated with the old Swedish family, do not appear in the Swedish-American communities. Strict regulation of pre-marital sex relations characterized these people as it did any American rural community in that neighborhood. Marital fidelity and marriage as a life-long institution were ideals receiving much emphasis. There are a number of cases in the church records indicating disciplining of members for marital strife. Divorce was uncommon. So far as the writer has been able to determine, only two divorces have occurred in the Lindsborg community since its inception. Family organization was distinctly paternalistic. The father was the distinct head of the family. Filial respect, obedience, etc., were cardinal virtues. Quite commonly children were required to stand at the table. Silence must be maintained at such times. Choice bits of food belonged to the father. At the same time there can scarcely



be said to be any of that extreme subjection of women found commonly among peasant peoples of Europe. Among the more cultured families of the community the closest contact between children and parents appear. One representative of the second generation describes his father reading aloud the books of Tegner, Runeberg, Wallin, and other Swedish writers. Family worship was almost universal. Most of the leisure and recreational time of the children was spent in the family circle.

Marriage with non-Swedes was looked on with some disfavor. The tradition existed that American girls were not good workers and were extravagant. Then, too, the other party was likely to be non-Lutheran. "Children of such marriages were likely to find themselves homeless and adrift," is the rationalization of a clergyman to account for such opposition. Nevertheless such marriages did occur, and from the very first. How often, and to what extent they have increased will be determined later from a study of marriage records. At the present time, based on the opinion of a group of college students, all of Swedish ancestry, there seems to be no opposition to such marriages. Several say that it would make no difference to them if their parents were opposed on such grounds, a reflection on the survival of the parental authority pattern.

Conflict in the home due to differences in the cultural backgrounds of parents and children are not so evident as in many immigrant groups, or even among Swedish Americans in other places. A number of the representatives of the second generation deny that there ever was any serious family disagreement over matters of dress, language, amusement, etc. There is little evidence of that isolation of parents from their children which we so often find in the immigrant family. There appears to be little sense of shame associated with Swedish language, customs, and parents who speak and practice these Swedish customs, which Professor Rosenquist seems to find in the Texas communities. Such epithets as "Green Swede," "Squarehead," etc., have little place in a community where almost everyone was Swedish. A certain amount of pride in their own cultural background appears even today among the descendants of the immigrants, and many of the third generation declare themselves interested in organizations for the perpetuation of the Swedish culture in America.

*Religion*

The immigration to Kansas occurred at a time when the pietistic movement and religious controversy in Sweden was at its height. Many of the immigrants came from sections of the country where this struggle was most intense, and one of the motives for immigration was alleged to be the desire to escape from the repression, the dead formalism and rationalism of the State Church. This religious and pietistic spirit is reflected in many phases of community life in this country. To be a member of "The First Swedish Land Company" it was necessary to be a converted and professing Christian, and member of the Swedish Lutheran Church. Membership in the church was not automatic following baptism and confirmation. One could only be accepted into membership on the approval of the Board of Deacons of the Church. The wife of Olsson, the first pastor, was admitted only after three hearings before the board. Denial of membership was by no means uncommon. All meetings of the land company were opened and closed with prayer. The breaking of the first ground in the community was accompanied by a religious ceremony. Some of the early settlers are described by a traveler as having "a most one-sided, fanatic, and narrow viewpoint on many questions. Violin playing they considered to be a sin; no music other than that of the organ or psalm singing was permissible. In reply to a simple 'good morning' one was likely to receive a half sighing reply, 'The Lord's mercy is every morning new'."<sup>6</sup>

The religious controversy, begun in Sweden, was almost immediately continued in this country, although it was limited almost exclusively to the Lindsborg group, hailing from Vermland, and was more or less absent in the other communities settled by other Swedish groups. It grew partly out of the opposition to the affiliation of the local church with the Augustana Synod, the central Swedish Lutheran Church body which was felt to be analogous to the State Church, and partly to a disagreement over the teachings of a religious leader in Sweden, one P. F. Waldenstrom. The struggle was particularly intense during the years 1872-74. Religious questions were discussed everywhere. The universal topic of conversation was religion. Farmers came to town with a Bible under their arms ready to take part in the discussion. A group of the pastor's friends assembled at his bedside as he lay sick and

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<sup>6</sup>Skarstedt, E., Article in Bergin, p. 169.

prayed the Lord that he would remove through death the cause of all the dissention. The final result was a split in the church and the organization of the Mission Church by excommunicated members of the Lutheran group, together with others who voluntarily withdrew. The discussion of religious matters in those days took the place of political and other forms of controversy which developed later. Quite often such discussion ended with a recourse to fists when words failed to convince.

While the church in the community was rapidly changed to fit the patterns of American Protestant churches, it carried over some of the functions of the parish church from the old country and exercised at that time far more influence than it does at the present time. One of the most interesting of these functions was the supplying of a community midwife. The minutes of the annual meeting of the congregation dated January 1, 1878, read as follows: "Since the salary of the midwife does not amount to more than 75c per communicant member, be it decided that old men, bachelors, and young girls who do not believe themselves likely to be in need of her services shall be exempt from this tax."

Apparently the Church was not always successful in maintaining discipline, particularly among its younger members. The following excerpts from congregational annual meetings indicate the point and sound almost modern: 1887—"Drunkenness, gambling, profanity, and the dance are sins against which we all must be warned." 1884—"Some cases of drunkenness, and strife between husband and wife have occurred among us." 1891—"Some of our young people neglect both the Lord's word and the Holy Sacrament, and even many of the older members are seen only too seldom in church. We are having some difficulty with unruly young people, especially at Sunday evening services." At one time the Church Council was instructed to petition the City Council for protection against hoodlums after the Sunday evening services. The Church tabooed dancing, card playing, and the theater, as well as the use of strong liquor, although every home served wine to guests, salving their conscience with the excuse that it was only home-made. The story is told that at the first breaking of land a jug of whiskey had been brought along for refreshment. The jug was dropped in being passed around and broke. This was interpreted as meaning that there never should be a saloon in the town.

Just what changes have taken place in religious attitudes cannot be accurately described without more study of the problem. In general, there still prevails the attitude that church membership is synonymous with good citizenship and non-church members are likely to be regarded by neighbors with some misgiving. The church organization itself quickly took on American patterns. A Sunday school was organized during the first five years. Women's sewing societies came into existence early, later being changed to missionary societies. Young people's societies, later called Luther Leagues, were organized in each section of the parish. In addition, a variety of other organizations for both sexes and all ages came into being, organizations for which there was no Swedish counterpart, and the patterns for which were found in other American Protestant churches. The institution of confirmation and instruction of the children of the parish in the doctrines of the Church by the minister continued as in Sweden. The "Swede" schools or parochial schools also had their Swedish origin, although here they existed to teach the language as well as to give religious instruction.

#### *Language*

Let us now observe some of the changes which have taken place in the use of language. No change, perhaps, is more significant in indicating the transition from the old world culture to the new than is the use of language.

The universal language of the first 30 years of development was Swedish, although one can scarcely say that it was the literary Swedish. It was a mixture of the dialect spoken by each provincial group and English, and could hardly be recognized as either language. The educated Swede regarded it with the greatest contempt. English words began almost immediately to be used. The following are a few samples taken from a diary written in 1870 extending to 1885: tub—*tubb*, pail—*peel*, shingle—*skingel*, lumber—*lomber*, bushel—*busel*, corn crib—*carn crebb*, jug—*jugg*, trouble—*trubbel*, acre—*äker*, break—*bräcka*, cotton wood—*kotten wood*, turkey—*törkis*, fence—*fäns*. To the English verbs the Swedish ending "a" was commonly given. Even the written Swedish was different from the literary Swedish found in Sweden. The nature of this language is well delineated by a local novelist and painter, G. N. Malm, in his book, *Charli Johnson*, and a play called *Härute* (Out Here).



Many of the early settlers had been in contact with American people before they came to the Swedish settlement, some as railroad laborers, as farm laborers, as domestics, and as soldiers in the army. Many of these spoke English fluently from early times. One or two have told me that they spoke a better English in 1870 than they do now after a lifetime in this country. An interesting phenomenon is the early adoption of anglicized names, often the names of early employers. Thus a neighbor of the writer was called Talbot; his original name was Johanson. Another called himself Patrick. Given names also were commonly non-Swedish. A few chosen at random illustrate: Clarence, Robert, Liebert, Hazel, Henry, Phyllis. Occasionally one finds names which do not seem to belong to either language, but perhaps sounded properly American to the Swedish ear. Algot, Irma Leane, Rester, Naemi are of this type. A limited investigation made by the writer in 1920<sup>7</sup> indicates, to some extent, the degree to which English had replaced the Swedish. At that time 44 out of 67 homes are reported as using both languages, 17 using English exclusively, three using Swedish alone. In 1900, Swedish was the language of trade. In 1920 it was used only by the older people. At the present time in almost every store some clerk is able to speak Swedish to meet the needs of older people who prefer to use it. In 1920 in a sample of 56 people only three reported themselves as using the Swedish in trade relations. In a group of 35 college students, only five report themselves as unable to understand the Swedish and speak it a little. In writing about the parochial schools in 1909, a local historian says: "In general, the children are just as capable of reading and writing Swedish as are children of the same age at home in Sweden." The war hastened the process of transition since it became unpatriotic to use the language outside the home, so that by 1920 it had all but disappeared, except in a few farm homes. In spite of the disappearance of the Swedish it has left a marked impression on the English spoken. Many of the children of the second and even of the third generation reveal by their accent their Swedish ancestry. This is particularly noticeable in idiomatic expressions used by college students who otherwise use an English free from accent. An instructor in English reports a student who gave him great difficulty. Work during the week would improve his language considerably, but weekly visits at home would produce a serious lapse into the old habits.

<sup>7</sup>*The Language Assimilation of a Swedish Community in the Middle West.*

In matters of language, perhaps the church represents the most conservative institution in the community, although even here the transition to English is all but complete. So far as the records show, English was first used in the large Swedish Lutheran Church in 1885, and then to accommodate the needs of students at the college. The present pastor of this church writes in 1909: "The language question has been forced on us by the college." During the four years preceding 1909 the only English used in this church was at one evening service per month. In 1909 one child was confirmed in English, the rest in Swedish. The pastor of this church, in a letter to the writer, remarks that English began to be used only 10 years ago. Contrast this with the situation at present. Both English and Swedish are used at the morning service with a sermon in each language. About five times as many attend the English service as attend the Swedish. No children are at present confirmed in Swedish. English is used exclusively in the Sunday School. All other organizations use the English except the Women's Missionary Society, where either language may be used. The pastor predicts that it will be only a short time until the Swedish has completely disappeared. This is significant in the light of the fact that an English Lutheran Church was organized in 1909, the services of which are all in English. Space does not permit me to describe the conditions under which this group came into existence. In the other churches in the community the same trend may be observed, although the Baptist and the Mission Church may use a little more Swedish. This transition has not taken place without conflict and opposition, particularly from the older people. One old woman remarks that she cannot feel that one can be saved in any other language than Swedish. A farmer commenting on an English sermon which he had just heard says: "Dä är dä samma som 'near beer,' dä har ingen kick i sej." (It is the same as near beer, it has no kick.) Along with the disappearance of the Swedish in the church has passed also the parochial school. About a half a dozen of these institutions were supported by this one church in 1910, one in the town, the rest in the country.

The place of Swedish in the curriculum at the local college is indicative of changes which have taken place. During the early years of its history a considerable number of courses in Swedish language and literature and history were offered. The courses in religion used the Swedish, and it was used not a little as a medium

of instruction in other courses. Swedish continued to be required of all Swedish-speaking students up to the time of the war, but it was with great difficulty that this rule was enforced. At the present time no Swedish is required, but a number of optional courses are given and are well attended. About one-fourth of the enrollment is non-Swedish. The medium of instruction is English. A Swedish literary society was in existence up to about 1915 and was at one time very popular. The student publication, called the *Bethany Messenger*, started out in 1892 as "*Bethany's Budbärare*." At one time it used both languages. Since about 1900 it has used English exclusively.

In conclusion, a word might be said about the press in the community. A large number of Swedish-American newspapers have circulated and, to some extent still do, in the Lindsborg area. Reports from the post office and from publishers say that this circulation has almost ceased. In Lindsborg itself 23 publications have been born, of which 10 have been in Swedish. All have now suspended. The last to disappear was "*Lindsborg's Posten*," suspending last year. This paper appeared first in 1897 and has been published regularly since that time. Invoices of the city's largest bookstore show that book orders for Swedish have diminished from about \$1,000 a year in 1909 to \$450 in 1919.<sup>a</sup>

#### *Recreation and Leisure Activities*

The play and recreation pattern of the community presents an interesting mixture of Swedish and American culture traits. The culture of the western frontier shows its influence in the comment of one who spent his boyhood in the settlement during the pioneer stage. He writes: "The horse, the gun, and the dog played an important part. Born in the corral and cradled in the saddle aptly describes the genesis of the prairie boy." He might perhaps better have said, the ox and the plow. Games played on the school grounds were largely of American origin, baseball being the principal one.

The pietistic attitude, an inheritance from the old country, interpreted nearly all forms of recreation as sinful. The heavy labor and toil of the early period made it relatively easy to prevent the devil finding work for idle hands. Dancing, card playing, gambling, the theatre, etc., were strictly tabooed during the early

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<sup>a</sup>See study by the writer mentioned above.

days, and are even today considered to be somewhat immoral. No theatre existed until the coming of the movies, which at first were regarded as questionable. No pool hall existed until last year, and then only after the revocation of a city ordinance forbidding such places. This was accomplished after a conflict which split the community into two warring factions. Dance halls have always been forbidden by ordinance, and the rules of the college forbid dancing to students. Needless to say, such rules are enforced with the greatest difficulty.

The mixture of cultures is best seen in the celebration of holidays. The Fourth of July, until some ten years ago, was the great event of the summer. Beside the usual fire works it was celebrated with a great parade of floats representing patriotic themes. A part of the parade were troops of cowboys and Indians. The latter were led by a perfect replica of a Sioux brave, impersonated by a native of the community who spoke English with a marked Swedish accent. This person is today a professor of art at the University of Oklahoma. The Swedish side of the celebration were folk dances in Swedish holiday costume, the playing of folk dances on accordion and fiddle, etc. A male chorus, patterned after similar groups in Sweden, gave a concert in both Swedish and English. Few there were in those days who could not sing "Du Gamla Du Fria" or "Hell Dig, Du Höga Nord." The reading of the Declaration of Independence was accompanied by a patriotic address in Swedish. Another more purely Swedish holiday was "All Swedes' Day" or "Gustavus Adolphus Day." Midsummer's Day also was occasionally a community holiday.

The great holiday of the year was, of course, Christmas. This began, and still does, with Christmas eve dinner with its characteristic dipping of the bread in the broth of the meat prepared for later meals *Doppa i gryta*. The Christmas eve celebration is a mixture of traits. The food is partly Swedish, partly non-Swedish. "*Lut fisk*," "*ris gryns gröt*," potato sausage, and other Swedish sausages, a sort of pressed veal "*ost cakä*," corned and pickled meats, and "*dricka*," a non-alcoholic home made ale, are Swedish. Turkey, fried oysters (in the writer's family), chicken salad, mashed potatoes, cole slaw and others are non-Swedish. The great Christmas dinner on Christmas day, Santa Claus, the giving of presents are non-Swedish traits, almost universally adopted, although the Christmas stocking is not used. The tree is common to both cultures. Early morning mass is universally celebrated in all Swedish Lutheran churches, and has come to be



copied by other protestant churches in many communities where Swedes live among Americans. It is interesting to note that the Christmas complex survives much more completely among the descendants of the Swedish pioneers than does the language, historical tradition, and other aspects of Swedish culture. These customs, as well as Swedish foods, have been adopted by non-Swedes also to a greater extent than have other phases of Swedish culture.

### *Conclusion*

In conclusion a few observations may be made. The cultural heritage of Sweden among these people is rapidly disappearing. The language has already almost disappeared. Another ten years will have seen its passing in practically all phases of organized community life. Inter-marriage with non-Swedish people is rapidly making the third generation of mixed descent. The present generation knows little of Swedish history and culture, and, except for a few sporadic manifestations in the form of membership in societies for the perpetuation of Swedish culture in America, has little interest in it.

At the same time the community is different from most other Kansas communities. Its deeply pietistic tradition has resisted with some degree of success the indifference toward religious matters observed in other places. The interest in music, which was not particularly Swedish but derived from the influence of certain leaders in the early days, has led to the development of musical organizations which make the place known outside the confines of the state. It seems that this uniqueness is likely to persist for some time.

## THE IMPEACHMENT OF J. B. PRICE

BY CORTEZ A. M. EWING

*University of Oklahoma*

The seventh impeachment in Texas history was that of Judge J. B. Price in 1931. Of these seven, five were of district judges.<sup>1</sup> The other impeachments were those of Land Commissioner McCaughey in 1893 and Governor Ferguson in 1917. Price was elected judge of the twenty-first judicial district in 1924. His impeachment resulted from the State's attempt to correct local government irregularities. As a means of checking up on the financial accounts of State and local officers, the Legislature in 1929 created the State auditor's department.<sup>2</sup> In 1930, the State comptroller resigned to escape certain impeachment proceedings.<sup>3</sup> Criminal prosecutions and convictions, impeachments, and even suicides of officials followed in rapid-fire order.<sup>4</sup> The impeachment of Judge Price in 1931 was, then, only an episode, and probably an unfortunate one, in the State's persistent offensive against unlawful claims and expenditures.

In December, 1930, the comptroller's department approved a claim against the State for \$7,900 and a warrant for that amount was issued. This item came to the attention of the Senate finance committee in early 1931. The claim had been presented by the heirs of John T. Carlisle, late sheriff of Lee County, for services rendered Judge Price's court during the fall term of 1925 and the spring term of 1926. The claim originally totaled \$18,000, but the comptroller's department reduced it to \$7,900. During the first called session of the Legislature in 1931, which met in the late summer, an investigation was conducted. Hearings were held and on August 19, twelve articles of impeachment were voted against Price.<sup>5</sup>

<sup>1</sup>Russell and Oliver (1871), Scott (1873), and Chambers (1873-1874). These were all Reconstruction impeachments.

<sup>2</sup>*General and Special Laws 1929* (1st called session), pp. 222-225.

<sup>3</sup>See *House Journal 1930*, 4th called session, pp. 15-254, for the proceedings and testimony of the S. H. Terrell investigation.

<sup>4</sup>For instance, in Dallas County, a political ring was exposed and prosecuted that had defrauded the state out of about \$200,000 during the last fifteen years. The principal graft of this group was the out-of-county witness racket.

<sup>5</sup>For full text of the articles, see *Supplement to Senate Journal 1931* (2d called sess.), 3-9. Hereafter in this paper, this document will be cited as *Price Proceedings*.

In brief the articles charged:

(1) That J. B. Price, judge of the 21st district, has on sundry occasions been guilty of gross neglect in approving claims of sheriffs, and that, specifically, he approved the claims of John T. Carlisle, sheriff of Lee County, for the October, 1925, and April, 1926, terms of court for \$6,317.25 and \$12,023.80, respectively, when such amounts were grossly erroneous;

(2) That he has consistently been guilty of gross neglect under Article 1036 of the Code of Criminal Procedure, wherein it is provided that he should scrutinize the sheriff's bill before approving or disapproving the same;

(3) That for the May, 1930, term, he approved the sheriff's claim that he was entitled to mileage for 4800 miles, the said distance sworn to have been travelled by the sheriff on three consecutive days in making the arrests of three persons, when, as a matter of fact, the sheriff arrested and conveyed the prisoners to the Burleson County jail on one day and travelled a total distance of only 210 miles in doing the same; for such bill, the sheriff demanded the sum of \$1,551.25, and Judge Price's approval of the bill constitutes gross negligence;

(4) That he approved the mileage bill of the same sheriff for the November, 1930, term, wherein the sheriff included items for the arrest and transportation of four men from Dallas, when, as a matter of fact, only two men were arrested, the other two names being only the aliases under which the two men were living, and in approving this bill Price failed to exercise ordinary care and diligence;

(5) That he approved the same sheriff's bill for subpoenaing four witnesses, wherein the sheriff alleged that he had summoned each of the four men six different times on the same day, whereas, as a matter of fact, each man was summoned but once;

(6) That he approved the same sheriff's bill for the arrest of one Otis DeHart, which arrest was not actually made;

(7) That he approved the same sheriff's claim for the arrest of one Bessie Norcross seven different times on December 22, 1928, when, as a matter of fact, the said woman gave herself up to the sheriff and thereby removed any necessity for his travelling;

(8) That he carelessly, knowingly, and unlawfully, approved the claim of the Lee County sheriff for the spring term of 1931, in which the sheriff claimed to have travelled 10,918 miles in eleven consecutive days in subpoenaing 800 witnesses; when, in fact, not all of the 800 witnesses were summoned, and many that were, were not material witnesses; in one case, the sheriff summoned every acquaintance of a prisoner;

(9) That he approved the mileage claim of the same sheriff at the same term in the case against one John Johnson, when, in fact, the sheriff had asked the prisoner for a list of all the people he knew, being sixty in number, and all of which were subpoenaed by the sheriff without cause or reason;

(10) That he carelessly, negligently, and unlawfully, permitted the sheriff of Bastrop County to collect \$2,397.70 for subpoenaing witnesses in one case, which case was before the court for four terms beginning January, 1929, when, as a matter of fact, the witnesses might have been brought before the last three sessions of the court without using formal subpoenas;

(11) That he approved the mileage claims of the same sheriff for the January, 1929, the June, 1929, and the January, 1930, terms of Court, when such claims were unmistakably fraudulent;

(12) That he, unlawfully and negligently, failed to exercise his lawful duties in regard to claims for witness fees, in that he signed the witness scrip book in blank and then permitted the clerk, who was bound only to record the claims, to fill in the blanks; all of which constituted official misconduct and gross carelessness on his part as judge.

The trial began on September 30. An assistant attorney general aided the house managers in the prosecution of the impeachment.<sup>6</sup> The respondent was represented by eight attorneys, including ex-Governor Moody, ex-Senator Page, and R. L. Batts. Demurrers were introduced to each and every article of impeachment, denying that any of the alleged mistakes constituted lawful and reasonable grounds for impeachment.<sup>7</sup> The managers failed to make replication of any kind to the answer of the respondent.<sup>8</sup> Arguments on the demurrers were of more than respectable duration and, by and large, constituted an able and intelligent exposition of the legitimate grounds for impeachment. Moody spoke for nearly five hours. In all, three days were given over to this feature. Counsel for Price insisted that impeachment comes within the scope of criminal law; and, therefore, only offenses that are indictable and prosecutable as crimes or misdemeanors are impeachable.<sup>9</sup> Despite the obvious need for qualifying this bald

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<sup>6</sup>This is an unusual arrangement. The Civil War impeachments of Kansas (1862) offer a like precedent, but most generally the lower house of the legislature rests its case with certain of its lawyer members. Sometimes, a private attorney is selected, as was General Crane in the Ferguson impeachment of 1917.

<sup>7</sup>*Price Proceedings*, 9-11. A general demurrer, as well as the specific ones, was offered, but the general one was not voted on separately, as in the McGaughey trial of 1893, another Texas case.

<sup>8</sup>No reason was ever given for this omission, though the defense attorneys called attention to it during the proceedings.

<sup>9</sup>This contention is scarcely tenable. Most authorities hold otherwise. Moreover, the McGaughey and Ferguson trials and the *Ferguson v. Maddox* case, 114 Tex. 85, offer opposite evidence. These are all Texas precedents, and should, presumably, have been followed. In the Maddox



generalization, counsel for the respondent built their whole argument upon it. They consistently ignored any other interpretation of the impeachment remedy. On the whole, the managers argued ineffectively, though they certainly did not lack enthusiasm. They failed to develop a convincing statement of the general nature and purpose of impeachment proceedings. Through a curious turn of circumstances, the defense attorneys wrote the score, played the music, and provided their own expert criticism of its artistic merit.

The demurrers to Articles 1, 2, 3, 4, 6, and 7 were sustained.<sup>10</sup> By doing so, the court reaffirmed the condonation precedent in Texas impeachment history. By this principle, whenever an officer is re-elected, he may not thereafter be impeached for an act of a prior term.<sup>11</sup> Logically applied, nonsensical as it may seem, it presumes that a corrupt official is politically purified in an avalanche of ballots.

Only six articles remained for trial. The managers produced witnesses, but when they attempted to offer testimony concerning the acts of Judge Price prior to November, 1928, the date of his re-election, defense counsel entered strenuous objection. The managers insisted upon their right to introduce such testimony in order to show system, *viz.*, the customs and habits of the respondent in the conduct of his official duties. Members of the court freely participated in the wrangling. Practically one whole day was spent in this ineffectual discussion. The Chair finally ruled that the testimony might be introduced for that specific purpose, but that it should not be given in order to prejudice the court

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case, the court unequivocally declared impeachment to be a quasi-criminal proceeding. And in its decision the court held that crimes or offenses need not necessarily be defined in the constitution or laws of the state to make them impeachable. Upon this lack of definition among other things, Ferguson hoped to invalidate his disqualification.

<sup>10</sup>*Price Proceedings*, 153-156. The demurrers were sustained by a majority vote. After the decision on the demurrers, there remained little doubt as to the ultimate outcome of the trial. On only one article was there so few as eight votes in favor of the respondent. When a court member votes to sustain a demurrer, he is almost bound to vote for acquittal on the final ballot. On only the eighth article was there an insufficient number of votes cast for the respondent to prevent final conviction, if the members did not change their minds after listening to the testimony. And one will look through many trial reports before finding a case in which a member has voted to sustain a demurrer, and then later voted to sustain the article of impeachment.

<sup>11</sup>This precedent was established in Texas in the McGaughey trial of 1893.

against the respondent. Witnesses were called to prove the irregularities in the sheriff's claims. Again, the defense counsel objected to the admission of the testimony, arguing that the malfeasance of a sheriff was of no materiality in the case at bar. If sheriffs had been guilty of the alleged unlawful acts, the proper remedy lay in the criminal courts, and not against another official in the high court of impeachment.

The defense counsel clung to the contention that the only admissible evidence was that which sought to prove that Price had committed an indictable offense. Moody blithely declared that incompetency was not an impeachable offense.<sup>12</sup> Moreover, respondent's counsel argued that evidence relating to multiple and duplicate mileage fees was not admissible for the period prior to the supreme court's ruling that held them invalid.<sup>13</sup> According to their contention, the judge had acted in good faith, and was merely obeying the court decisions then in existence.

The managers put sixteen witnesses upon the stand. Most of the testimony came from representatives of the comptroller's and auditor's departments, though some were local government officials. When the managers rested their case on Monday, October 12, counsel for defense presented a petition to the court praying that, since the prosecution had introduced no testimony of any consequence relating to any of the charges alleged in the articles of impeachment, the court consider whether the impeachment proceedings should be dismissed.<sup>14</sup> Another prolonged argument was thereby precipitated, but the court finally terminated the discussion by voting, fifteen to twelve, to continue the trial until both

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<sup>12</sup>The statement is, of course, subject to severe criticism as to accuracy. Governor Johnson of Oklahoma was removed from office in 1929 upon the sustainment of an article charging general incompetency, when no article alleging specific evidence of incompetency mustered the necessary majority for conviction.

<sup>13</sup>The duplicate or multiple mileage racket had long been a lucrative source of revenue for sheriffs. If, for instance, a person were indicted on fifteen counts under the state prohibition law, the sheriff would collect mileage fees for subpoenaing witnesses as if he had subpoenaed each witness on each separate charge in the indictment. In 1925, the Texas court of civil appeals upheld the right of a sheriff to collect these duplicate fees. *Bingham v. the State*, 275 S. W. 147. However, in February, 1927, the supreme court reversed that ruling and held invalid any such multiple fees. *Bingham v. Jones*, 116 Tex. 348.

<sup>14</sup>*Price Proceedings*, 498.

sides rested.<sup>15</sup> The strength of the pro-Price forces in this division removed any further doubt as to the ultimate decision of the court. If the court had granted the prayer of the respondent, it would have followed an unusual impeachment precedent.<sup>16</sup> What is the authority of the senate court to dismiss an impeachment lawfully presented by the lower house, other than by demurrer or by a failure to sustain the articles? Can the senate refuse to receive an impeachment message from the lower house?<sup>17</sup> The answer to these questions is indubitably in the affirmative, for no remedy exists for coercing a senate or impeachment court into performing constitutional duties, and a *sine die* adjournment of the impeachment court would terminate the proceedings until it were again erected into lawful session.<sup>18</sup>

The final arguments were brief. In the balloting, the court refused to sustain a single article. Of the thirty members, only twelve cast votes for conviction, and no article received more than eleven votes for sustainment. Table I shows how each member voted on the demurrers and the final balloting. It is interesting to note that not one of the members who had voted to sustain the demurrer on an article reversed himself and voted to convict on that article after hearing the testimony. Nine members did not cast a single vote against the respondent during the entire proceeding. Since demurrers are sustained by a bare majority, it is possible for this majority of a quorum to carry the case to the testimony-taking stage, when there is practically no likelihood that the charges will be finally sustained. Indeed, it might be well

<sup>15</sup>*Ibid.*, 507.

<sup>16</sup>A Louisiana impeachment court in 1876 adopted such an acquittal order. It occurred during the trial of Gov. W. P. Kellogg, and the acquittal was voted even before the articles were exhibited against Kellogg. The lower house was adjourned at the time. See *Louisiana Senate Journal*, 1876, 294.

<sup>17</sup>For all practical purposes this occurred in Arkansas in 1871, when the senate refused to recognize the committee sent by the house to notify the upper chamber of the impeachment of Governor Powell Clayton.

<sup>18</sup>The right of an impeachment court to adjourn to some later date has been upheld. See *Kansas ex rel. Adams v. Hillyer*, 2 Kans. 17 (1863); *Ferguson v. Maddox*, *supra*, established, for Texas, the principle that the impeachment court was of exclusive, original and final jurisdiction, though, of course, there must be some qualifications to so broad a generalization; see the report of committee on judiciary, *Texas Senate Journal*, 1874, 42, to which committee was referred the matter of the validity of a senate court of a subsequent legislature taking jurisdiction in an impeachment that had been voted in the house of representatives of a prior legislature. Jurisdiction was taken and Respondent Chambers was tried and acquitted.

TABLE I  
VOTES IN PRICE IMPEACHMENT<sup>a</sup>  
Texas: 1931

Member	Votes on separate demurrers <sup>b</sup>												Dismiss <sup>c</sup>	Final votes on articles <sup>d</sup>						Total	
	1	2	3	4	5	6	7	8	9	10	11	12		5	8	9	10	11	12	P	C <sup>e</sup>
Beck	N	N	N	N	N	N	N	N	N	N	N	N	N	A	A	N	A	A	A	1	18
Cousins	A	A	A	A	A	A	A	A	A	A	A	A	A	N	N	N	N	N	N	19	
Cunningham	N	N	N	N	N	N	N	N	N	N	N	N	A	N	N	N	N	N	N	7	12
DeBerry	N	N	N	N	N	N	N	N	N	N	N	N	N	A	A	N	A	A	A	1	18
Gainer	A	A	A	A	A	A	A	A	A	A	A	A	A	N	N	N	N	N	N	19	
Greer	A	A	A	A	N	A	A	N	N	A	N	N	N	N	N	N	N	N	N	13	6
Hardin	N	N	N	N	N	N	N	N	N	N	N	N	N	A	A	N	A	A	A	1	18
Holbrook	N	A	N	N	N	A	A	N	N	N	N	N	N	A	A	N	A	A	A	4	15
Hopkins	A	A	A	A	A	A	A	A	A	A	A	A	A	N	N	N	N	N	N	19	
Hornsby	A	A	A	A	A	A	A	N	F	N	A	A	A	N	N	N	N	N	N	17	2
Loy	N	N	N	N	N	N	N	N	N	N	N	N	N	A	A	N	A	A	A	1	18
Martin	A	A	A	A	A	A	A	A	A	A	A	A	A	N	N	N	N	N	N	19	
Moore	N	N	N	N	N	N	N	N	N	N	N	N	N	A	A	N	A	A	A	1	18
Neal	A	A	A	A	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	9	10
Oneal	N	N	N	N	N	N	N	N	N	N	N	N	N	A	A	N	N	N	A	3	16
Parr	A	A	A	A	A	A	A	A	A	A	A	A	A	N	N	N	N	N	N	19	
Parrish	A	A	A	A	A	A	A	N	A	N	A	A	N	N	N	N	N	N	N	16	3
Patton	A	A	A	A	A	A	A	A	A	A	A	A	A	N	N	N	N	N	N	19	
Poage	A	N	A	A	N	N	A	N	N	N	A	N	N	A	A	N	A	N	A	7	12
Pollard	A	A	A	A	A	N	A	N	N	N	N	N		N	N	N	A	N	N	11	7
Purl	A	N	N	N	N	N	F	N	N	N	N	N	N	A	A	N	A	N	A	4	15
Rawlings	A	A	A	A	N	A	A	N	N	N	N	N	N	N	N	N	N	N	N	12	7
Russek	A	A	A	A	A	A	A	A	A	A	A	A	A	N	N	N	N	N	N	19	
Small	A	A	A	A	N	A	A	N	N	N	N	N	A	N	N	N	N	N	N	13	6
Stevenson	A	A	A	A	A	A	A	A	A	A	A	A	A	N	N	N	N	N	N	19	
Thomason	A	A	A	A	N	A	A	N	N	N	N	N	N	A	A	N	A	A	A	7	12
Williamson	A	A	A	A	N	A	A	N	N	N	N	N		N	N	N	N	N	N	12	6
Woodruff	N	N	N	N	N	N	N	N	N	N	N	N	N	A	A	N	A	N	A	2	17
Woodul	A	A	A	A	A	A	A	A	A	A	A	A	A	N	N	N	N	N	N	19	
Woodward	A	A	A	A	N	A	A	N	N	N	N	N		N	N	N	N	N	N	12	6
Total Ayes	21	20	20	20	12	18	21	9	11	10	12	11	12	11	11	0	11	7	11		
Total Nays	9	10	10	10	18	12	9	21	19	20	18	19	15	19	19	30	19	23	19		
Sustained	*	*	*	*		*	*														
Overruled					*			*	*	*	*	*		*	*	*	*	*	*		

<sup>a</sup>Data compiled from *Supplement to Senate Journal 1931* (2d called sess.), pp. 153-156, 507, 566-570.

<sup>b</sup>On demurrers, "A" means to sustain the demurrer and "N" to overrule the same.

<sup>c</sup>This is the motion to dismiss the whole proceeding, which was voted down before the final arguments. This vote has been transposed to make it more easily understandable, for the motion was to continue the proceeding until both sides rested.

<sup>d</sup>This relates to the six articles on which the demurrers had been overruled; and here "A" means to sustain the article of impeachment and "N" to acquit the respondent on that article.

<sup>e</sup>This column is a recapitulation; "C" means *contra* the respondent; thus, any vote against a demurrer, the dismissal motion, or in favor of sustaining the article of impeachment, is a vote *contra* the respondent; "P" means *pro* the respondent.



to alter the rule and require a two-thirds majority to overrule demurrers. Many long and wearisome impeachment sessions would thereby be averted. In theory, the majority rule on demurrers is reasonable, but, in practice, the votes thereon are seldom meant to determine the impeachability of the offenses alleged. Rather, such voting on demurrers becomes an initial index of how the court will line up on the final balloting. The channels and reservoirs of information to which the legislators have access are of such adequacy as to render the taking of testimony practically of no importance or influence in the making of a final decision. It is a hackneyed axiom of impeachment halls that not a vote was changed by all the argument and testimony. This represents, perhaps, another weakness of the political instrument that is impeachment.

There are many reasons for the decisiveness of the court's final verdict in this case. An unusual amount of sentiment and sympathy for this aged judge was manifested in and out of the court chamber. His impeachment was regarded as unconscionable persecution. We found, said one of the prosecutors, an old decrepit man sitting at the end of the long road of investigation. Two of the defense attorneys were old friends of the respondent, and they were generous in their testimonials concerning his character, his reputation, and the unselfish services that he had rendered to the State. Was such a noble and generous jurist to suffer unmerited dishonor in the declining years of a glorious life? No one will deny that the appeal was of importance in the decision. Again, there was a general feeling that Judge Price should not be convicted when others of the more than one hundred district judges were equally guilty of the same negligence. Moreover, the idea persisted that the trial would serve as a reminder to such judges that the State officers were prepared to scrutinize future claims and to refuse payment for items not authorized by law.

The trial never mustered the dignity that featured the proceeding in which Governor Ferguson was removed and disqualified. Many of the court members were outspoken in their preference for an early adjournment. Most of the year had already been spent in legislative sessions. In addition, Austin sweltered in the most torrid weather of the year. Nerves were on edge. There was a noticeable lack of good humor. The conduct of certain counsel was scarcely dignified. On one occasion, a childish squabble occurred over the question of whether defense counsel

should have the right to examine a memorandum with which a witness had provided himself to refresh his memory. When the witness finally surrendered the paper to defense attorneys, some difficulty was experienced in effecting its return. One court member openly admitted that some of the argument on the admissibility of testimony was foolish. Another declared that the trial was "rapidly becoming the joke of the State . . ." <sup>10</sup> In all, it was a very undignified and raucous proceeding, in which certain attorneys and some members of the court were lavish in interpolating and dilatory forensics. When the managers were presenting their final arguments, the defense kept up a running fire of objections, presumed corrections, and general unwarranted interference.

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<sup>10</sup>*Price Proceedings*, 381.

## FINANCIAL ASPECTS OF THE PUBLIC LANDS IN TEXAS

BY ALDON S. LANG

*Baylor University*

The once vast public domain of Texas is no more. It passed with the nineteenth century into history. How much revenue did the State of Texas actually realize from her landed estate? By what objectives was the State actuated in the disposition of her public lands? Were fiscal or non-fiscal considerations paramount in the policy of alienation? What have been the results, economic and financial, of this policy? A lengthy and meticulous quest has been made for intelligent answers to these questions. Due to imperfect records, the exact amount of revenue received from the public domain is and will probably remain an unknown quantity. Yet the calculations to be summarized shortly are based upon the official records of the General Land Office.<sup>1</sup> The amount of land disposed of for various objects is given in the Land Office reports in approximate figures only. It would be presumptuous to claim greater accuracy for our own figures on land receipts.

The Republic of Texas embraced an essential area of 237,906,080 acres. When the state declared its independence of Mexico, all this vast area was unappropriated public domain save 26,280,080 acres which had previously been granted to individuals by Spain and Mexico. By 1845, when Texas was admitted into the union, the republic had given away 41,570,733 acres more, and had sold 1,280,000 acres of land scrip. The republic thus disposed of 42,850,733 acres. The state government gave away outright 44,457,370 acres, making a total of 86,457,370 acres that Texas has given away from first to last. Land gifts represented by the above figure exceed by 565,063 acres one-half the present area of the State of Texas. Another 52,000,000 acres was appropriated to education, but this may properly be regarded as a fiscal use of the land, since the proceeds accrued to the endowments of public trust funds. It was not a gift. The land dispositions of Texas by objects and amounts may be summarized as follows:<sup>2</sup>

<sup>1</sup>This article is adapted from the author's *Financial History of the Public Lands in Texas*, a University of Texas dissertation, 1931.

<sup>2</sup>*Land Office Report, 1920*, pp. 34-5. The above calculation was made on the basis of Land Office reports. The total amount of land granted and reserved, according to these reports, exceeds by more than a million and a half acres the estimated total area of the state.

	Acres
Estimated area of Texas prior to 1850	237,906,080
Land sold to the United States in 1850	67,000,000
Estimated area of Texas since 1850	170,926,080
Land grants by Spain and Mexico	26,280,080
Bounty and donation grants	36,876,492
Land scrip sold	1,280,000
Colonization contract grants	4,494,806
Grant to Central National Road	27,000
Grants to railways	32,400,000
Grants to other internal improvements	4,061,000
Homestead donations	4,847,136
Grants to county school funds	4,229,166
Grants to public school fund	45,000,000
Grants to University of Texas	2,281,660
Grant to Lunatic Asylum	101,618
Grant to Deaf and Dumb Asylum	102,259
Grant to Blind Institute	104,457
Grant to State Orphan Home	102,359
Land exchanged for State Capitol	3,050,000
Pensions to veterans of Texas Revolution	1,169,382
Pensions to Texas Confederate veterans	1,979,852
Sold to pay public debt, laws of 1879 and 1887	1,660,852
The reserved submerged areas	1,722,800
Total	172,230,087

*The Unappropriated Public Domain.* — The unappropriated domain included all the virgin lands owned by the State prior to their disposition or appropriation. In the early history of the state, these lands were looked upon as the chief source of public revenue. Numerous attempts were made to sell lands to obtain revenue, but the financial results were disappointing. However, the policy of lavish grants for social purposes was pursued to the end of the nineteenth century. It was discovered in 1898 that the then remaining unappropriated public domain of Texas was less than enough to satisfy the constitutional claim of the public school fund to its half of the vacant and unreserved lands.

The legislative act of February 25, 1900, settling the joint land account between the state and the school fund gave to the latter all the remaining unappropriated lands except islands, lakes and bays within tidewater limits, and river beds. These remnants of the public domain proper, consisting almost wholly of submerged areas, have been permanently reserved to the State. It is interesting to observe that the annual receipts derived from the submerged areas, amounting now to slightly less than a half million dollars, is well in excess of the average yearly revenue obtained from the unappropriated public lands during the time they were on sale. With the concrete age still perhaps in its infancy, the sale of sand, shell, and gravel from the beds of public streams



may be expected to yield an ever-increasing annual revenue. The underlying minerals are also yielding moderate royalties.

*The Appropriated Lands.* — The appropriated public domain consists of all lands appropriated to the public schools, The University of Texas, and the state eleemosynary institutions. This area was distributed as follows: county school lands, 4,229,166 acres; state public school lands, 45,000,000 acres; University lands, 2,281,660 acres; asylum lands, 410,693 acres. Texas has thus appropriated to her public trust funds 51,921,519 acres, about thirty percent of the area of the state. It is in the administration of these lands that the best opportunity is afforded for observing the efficiency of the State as a landed proprietor.

Even though the lands were dedicated to the endowment of certain state institutions, the interests of these institutions have frequently been sacrificed to the social policy of encouraging home ownership. The leasing of appropriated lands has been a regular state policy since 1883. Except for the 2,000,000 acres of unsold University lands, however, and some scattered tracts of school land, the appropriated domain has disappeared also. Proceeds from the sale of this land have gone into the permanent funds of the institutions to which the lands were appropriated. Mineral leases and royalties have also augmented the permanent funds. Grazing rentals, however, have accrued annually to the available funds of the various institutions. Time has apparently vindicated the University Board of Regents in its policy of withholding from sale the 2,000,000 acres of unsold University lands.

*Receipts from Public Lands.* — The total cash receipts derived from the public lands from 1835 to the end of the fiscal year 1928, as calculated by the writer, are here summarized. Every form of public land revenue has been taken into account. The calculation includes receipts from land sales, interest on land notes, lease rentals, mineral royalties, Land Office fees and dues, and receipts from the reserved submerged areas, *i.e.*, from the sales of sand, shell, and gravel from river beds and coastal waters, oyster royalties, fishing rights, etc. According to these calculations, the public lands yielded, during the ninety-three-year period from 1835 to the close of the fiscal year 1928, a gross revenue of \$113,837,945.59. This sum is slightly in excess of sixteen percent of the \$703,196,638 total state revenue collected in Texas during the same period.

Of the total public land receipts, \$19,423,181.95 was obtained from the unappropriated domain. Included in the latter figure

is the sum of \$2,155,827.41 collected in Land Office fees and dues. The balance, \$94,414,763.64, came from the appropriated lands, of which \$77,016,540.26 was derived from public school lands, \$16,338,017.74 from University lands, and \$1,060,205.64 from asylum lands. The University fund is now reported to stand at approximately \$18,000,000, and is increasing at the rate of about \$1,000,000 per annum. Now that the public lands are all but exhausted, they assume great financial significance. Such is the paradox wrought by the discovery of oil on University land.

*Public Land Policy and General Welfare.*—In the early history of Texas land was the only important resource that the State possessed. A substantial system of taxation was out of the question until a social order possessed of private property could be developed. Land was superabundant and virtually a free good; consequently, the State had a long struggle with poverty. Even though land receipts were meager and irregular they were not insignificant; for not only has the land yielded a varying annual revenue, but it has also been used for many objects that could not have been fostered otherwise. The State has used her public lands with which to attract immigrants, pay soldiers, endow private educational institutions, subsidize internal improvements, provide pensions, pay public debts, construct the State Capitol, and endow public trust funds for public education, The University of Texas, and the State eleemosynary institutions.

That taxation has been obviated through the above named uses of public land is apparent. Had the lands not been used for such objects, either state assistance would have necessarily been very meager, or else taxation very burdensome. Yet, it is very difficult to measure these undoubted benefits. Nor is it here meant to imply that every land subsidy bestowed was beneficial or justifiable. Doubtless the State was guilty of extravagance in the use of its lands, especially in aiding railways. The point is that the lands were, in general, used for beneficent purposes. Insofar as the lands have produced revenue, the results are tangible and measurable. These tangible benefits are indicated in the statistics on land receipts. The degree of social benefit or general welfare derived from the extensive use of public lands for the many purposes indicated above, and which yielded the state no direct revenue, is largely immeasurable. Yet we shall attempt to indicate at least some probable social and economic results of the Texas public land policy. Let us examine the public land policy

of Texas in the light of the two recognized standards or policies of land disposition.

*The Fiscal Standard.*—If the effectiveness of a land policy is to be appraised by the fiscal standard, one must determine the amount of revenue the lands have produced, and calculate to what extent taxation has been obviated. It has already been seen that receipts from public lands in Texas have been meager. Financial considerations have, with slight inconsistency, been sacrificed to social considerations. Judged by receipts the land policy was, until recently, largely a failure. To the question of how much taxation has been obviated a far less definite answer can be given.

If Texas had been choosing between paying in land for certain public wants, and paying in tax money, the question might be answered quite definitely. That is to say, the money cost of paying pensions to soldiers or paying for the building of a state capitol, for example, might be computed. Then it might be said that the land appropriated for the particular object obviated taxation equal to the calculated cost.

But Texas rarely had the choice of paying either with tax money or with land. It was usually a question of either paying in land, or paying not at all; or, if paying at all, paying considerably less than might be offered in land. It is undoubtedly true that state aid to internal improvements would have been far less liberal had land not been an acceptable subsidy. Land was not merely a convenient currency used by Texas for subsidizing immigrants, war veterans, internal improvements, etc.; land was the only available currency for stimulating and fostering such desired social, economic, and political objectives. So the fiscal standard of land disposition must be applied to the Texas situation with caution. Actual receipts from land have been meager in the sense that they were considerably less than what might possibly have been collected. They were not without financial significance.

*The Socio-Political Standard.*—If we attempt to measure the effectiveness of the land policy by the socio-political standard, we must seek to discover the degree of success which attended the land policy designed to promote the then cherished ideals. Each state must necessarily apply this policy in its own unique way, because the desirable or the desired social, economic, and political ends, and the conceived destiny of states vary among

different peoples. Texas, for almost a century, has been predominantly Anglo-American in her peoples, ideals, philosophy, and institutions. In pursuing the socio-political principle of land disposition, Texas was keeping faith with her cultural heritage. She was building a society permeated with the cherished ideals and institutions of the Anglo-American. This she was at least trying to do.

We find the Texas government, to the end of the nineteenth century and beyond that date, using the public lands to reward patriotism, encourage home ownership, stimulate private enterprise, endow common school and university education, etc. Texas was merely practicing strict orthodoxy with respect to nineteenth century statecraft and political economy. Generous use was made of the public lands to promote social and political democracy, to increase private property, and to magnify the benign order of *laissez-faire*. To what extent, it may be asked, has the public land policy of Texas promoted the upbuilding of a society characterized by such ideals and institutions?

Public land was made private property by favorable terms of sale, and more frequently by out-right gift. The preemption and homestead policies were designed to vouchsafe to every worthy Texan the opportunity of owning a home. Yet loose legislation and faulty administration of the land laws largely defeated the purpose of the homestead legislation. The policy of *laissez-faire* had its place even in the administration of the public lands, the preemption and homestead laws being essentially *laissez-faire* measures. Individuals were permitted to locate upon the public domain their own homesteads.

Adherents to the socio-political principle of land disposition contend, with Adam Smith, that greater revenue will be realized by the state by disposing of the land and relying on private enterprise to increase taxable wealth. This, the accepted school of thought, contends that it is good political economy for the State to dispose of its land on convenient terms, even by gift if need be. Since one cannot know just how much revenue the public lands might have produced had they been carefully administered with the view of obtaining the maximum amount of revenue, it is impossible to compare such imaginary receipts with actual receipts from taxation. Conscious of the difficulty of making any such comparison, we look elsewhere for results of the socio-political policy of land disposition followed by Texas with only slight variation.



*Expected Results of the Land Policy.*—If financial receipts are an inadequate measure of the success of a land policy, then by what standard shall we attempt to measure its success? When we remember the objects subsidized and fostered with land, it seems that among the results that we should reasonably expect to find in Texas today are the following: a high percentage of home ownership among a population devoted chiefly to agriculture; a low percentage of farm tenancy; land ownership widely distributed with relatively few large land holdings and little absentee landlordism; an adequate and efficient railway system with considerable industrial development; an amply financed and efficient system of public schools; a well endowed state university of high rank; a low percentage of illiteracy among the population; a standard of living at least as high as that which prevails in the average American state; little poverty; and a low rate of taxation. To expect a full realization of these social and economic virtues to follow as the logical result of a land policy would be to judge that policy by the Utopian standard. It is only maintained here that the results of the Texas land policy should be sought and possibly revealed in the general economic and educational attainments of the State. It is believed that a comparison of the general educational and economic progress in Texas with progress along similar lines in the United States may suggest some answer to the question as to what social results have been attained through the land policy.

It should be noted that Texas, even after she entered the Union, had exclusive jurisdiction over her public lands, while public land in states other than Texas belonged to the United States. Just as was the case in Texas, most of the federal lands were disposed of not for purely fiscal but for social purposes. Some was sold prior to 1862, some was given away as homesteads, but more of it was granted as subsidies to education and railways, and other internal improvements. Most of the states received grants of land to be used as subsidies to internal improvements and education, and the land could be used for no other purpose. Texas, on the other hand, has been able to realize a continual, though small and fluctuating, general revenue from her lands, and, at the same time, outdo other states in granting land subsidies and land endowments.

Yet Texas had a geographic disadvantage which was doubtless reflected in low land values. The geographic situation of Texas was unfavorable compared to the situation of much of the public

land in the United States. Much of the Texas land was not so well adapted to effective utilization because it was poorly watered and less accessible than large areas of public land in other states. Yet, the more generous land policy of Texas did probably have a tendency to offset the disadvantage of the State in situation, fertility, climate, etc. There is ample evidence to substantiate the belief that population and capital were attracted to the State by the liberal land policy. Texas in her early history felt the need of additional population and capital. The early land grants made to the soldiers of the Texas Revolution and to immigrants did attract population, just as the lavish grants made later to internal improvements attracted the necessary capital for the development of such enterprises. Similar objects were being subsidized in the United States, and Texas was merely meeting the competition. At a time when the United States was offering 160-acre homesteads for a residence period of five years, Texas was offering 320-acre homesteads for a residence period of three years.

It is realized that whatever state of economic and educational progress Texas may have attained cannot be attributed solely to public lands or public land policy. Yet the results of this policy must be sought in the hazy realm of wealth, welfare, and educational advancement. We shall hazard a statistical comparison of economic and educational attainments in Texas and the United States. With its many defects, this probably affords the best standard available.

*Interpretations.*—It is obvious that population and land values have not increased in Texas as they have throughout the United States generally. Texas is also below the average in per capita wealth and income. Per capita debt and per capita taxation, however, are much below the average in Texas. This, of course, may be partially explained by the fact that Texas has not expanded the scope of her governmental functions proportionately with other states. Nevertheless, it appears to be certain that the rate of taxation has been kept lower in Texas than might otherwise prevail by virtue of the fiscal uses made of public land.

On the other hand, the abundance of public lands and the tendency to rely upon them for public revenue retarded the development of taxation in the State. There are good reasons for believing that a satisfactory tax system would have been developed much earlier in Texas had it not been for the constant temptation to rely upon land receipts for public funds. Possibly

more vigorous taxation would have been resorted to for the support of both lower and higher education, had it not been for the land endowments.

#### STATISTICS ON WEALTH, WELFARE, AND EDUCATION<sup>3</sup>

	U. S. <sup>4</sup>	Texas
Density of population per sq. mi. (1920).....	35.5	17.8
Average value of land per acre (1922).....	\$57.36	\$14.53
Per capita wealth (1922).....	\$2,918.00	\$2,010.00
Per capita income (1926).....	\$766.00	\$611.00
State debt per capita (1927).....	\$17.01	\$1.50
State taxation per capita (1922).....	\$8.01	\$6.25
Local taxation per capita (1922).....	\$20.92	\$11.60
State and local taxes per capita (1922).....	\$28.93	\$17.85
Per capita state revenue receipts (1927).....	\$14.99	\$14.66
Percent of homes rented (1929).....	54.4%	57.2%
Percent of farmers that are tenants (1925).....	38.1%	60.0%
Percent of farms having automobiles (1929).....	30.7%	22.9%
Percent of farms with running water (1929).....	10.7%	8.8%
Percent of farms with telephones (1929).....	38.7%	32.2%
Farms with gas or electricity (1929).....	7.0%	1.9%
Percent state income paid for schools (1927).....	39.7%	53.9%
Per capita expenditures on schools (1922).....	\$21.00	\$12.50
Illiteracy among persons over ten (1920).....	6.0%	8.3%
Illiteracy among all persons (1920).....	7.1%	9.6%

#### EDUCATIONAL RANK OF TEXAS AMONG THE STATES (1920)

Percent of total expenditures spent for elementary and secondary education.....	1st
Percent of total expenditures applied to schools.....	2d
Percent of total debt incurred for schools.....	3d
Per capita state and local expenditures for education.....	37th
Income per \$1,000 wealth for higher education.....	23d
Income per \$1,000 wealth for university education.....	32d
Income per long session students (higher education).....	13th
Income per long session student (university education).....	25th
Value of plant per long session student (higher education).....	32d
Value of plant per long session student (university education).....	29th
Number of long session students per teacher (higher education).....	43d
Number of long session students per teacher (university education).....	33d

From a careful study of the table it appears that the standard of living in Texas, and especially on the farm, is not as high as the average standard of living prevailing on the farm throughout the United States. But there is no positive proof as to whether the standard of living on the Texas farm is higher or lower today

<sup>3</sup>These statistics were compiled partially from the *Twenty-third Biennial Report of the Board of Regents of the University of Texas*, p. 14. Some are from the *U. S. Agricultural Yearbook, 1929*; some from the *Financial Statistics of States, 1927*; and some from the *World Almanac* and the *Texas Almanac*, each for 1929.

<sup>4</sup>This column gives averages for all the states.

than it would be had there been no bounty and donation lands, no homestead and preemption laws. Even if the land laws had been administered perfectly, it could not be expected that Texas farmers would be better situated economically than farmers in other states. There are other vital factors such as differences in resources, climate, situation, etc., which may be equally, if not more, important than land policy, in determining living standards. Therefore, these statistics tell us nothing for sure with respect to what the effect of land policy on standards of living has been. However, if the public domain has enabled the State to perform its functions satisfactorily and at the same time leave more dollars in the pockets of its people, the result is a standard of living higher than would otherwise prevail.

The foregoing data also reveal the fact that in spite of the generous land endowments appropriated to education, Texas has today an educational rank considerably below that attained throughout the country generally. It is a strange irony in the financial history of Texas that the educational lands, appropriated to insure generous financial support to education, should have served as an effective argument to block legislation designed to raise the educational rank of Texas. Such, however, has been the case. It is due largely to the fortuitous discovery of oil on University land, that The University of Texas is now rapidly taking its proper place among the leading universities of the country. It cannot be affirmed that the general educational rank of Texas is either lower or higher than it would be had the educational lands not been so designated. About all that can be said on this question is that the large land grants to education have failed to provide the state with a high ranking general educational system. An analysis of the causes of this regrettable condition lies outside the purview of this discussion.

The statistics show conclusively that the public lands in Texas, and their disposition in the interest of home ownership, have not solved the problem of farm tenancy. In fact, Texas has a lower percentage of home ownership and a higher percentage of farm tenancy than any other state in the Union except Louisiana. This condition is obviously due in part to poorly drafted and poorly administered laws governing the sale of public land. Texas has failed notoriously to observe that principle of land disposition which requires that sales be made in such a fashion as to preclude the possibility of speculation by the purchasers. Not only has this principle been frequently violated in Texas, but there has also



been the possibility of one individual's purchasing directly from the government more than he was entitled to receive. This has usually been done through fraudulent collusion. Texas had, back in the eighties, as a result of this loose policy, a notorious episode of "land-grabbing." Many of the large land holdings in Texas were accumulated during this period.

*Conclusions.*—We reach the conclusion that undoubted profit has come to Texas from both the fiscal and the non-fiscal use of her land, but that the benefits derived from the non-fiscal use is largely immeasurable. It is some consolation to think that what revenue was foregone by giving away land instead of selling it, has been compensated indirectly through lower tax rates on an ever-increasing amount of private wealth. Further taxation has been obviated through the policy of appropriating land to educational endowments. The revenue produced from, and the taxation obviated by virtue of the public lands, both represent returns from the public domain. That the land policy increased population and wealth cannot be doubted. Yet, had all the land been offered as homesteads without price, it is doubtful if population would have increased much more rapidly than it has increased. The fact that the lands were offered more rapidly than they could be effectively utilized would seem to support this view. Moreover, had the state given away all its lands, without selling, appropriating, or reserving any, more vigorous taxation would have been necessary.

It is easy to find fault with many features of the Texas land policy, just as it is an easy matter to criticize almost any policy when it is viewed historically. But the lands are gone, and it may be said that the policy of alienating public lands seems to have been the only feasible one for Texas to pursue. Alienation was essential to state-building, in the accepted meaning of that term. It appears also that the lands could not have been wisely alienated in strict accord with any one principle of land disposition.

Texas did employ both the fiscal and the non-fiscal principles of land disposition. Lands might have been given away less extravagantly, it is believed, without defeating the objects of such grants. While it is admitted that both principles should have been employed, considerably more land might have been sold for revenue than was in fact. It is difficult to see why lands appropriated for educational endowments, for example, should not have been sold primarily for revenue. Yet it was sold on terms suited

to the convenience of settlers. It is not denied that settlement and home ownership merited some stimulation, even in the sale of educational lands, but the interests of the educational funds should have been paramount. Considerably more revenue might have been obtained, and it is exceedingly doubtful if such a policy would have produced any greater problem of farm tenancy than that which now exists in Texas.

It should probably be added that the Board of Regents of the University of Texas, in administering the remaining University lands, is looking primarily to their revenue possibilities. All other considerations are secondary to the pecuniary needs of the University. The University has already been greatly benefited by this policy. Had it been adopted fifty years ago in the administration of all the appropriated lands, the educational funds would doubtless be much larger than they are today, and the general state of well-being none the worse.

## THIRTEENTH ANNUAL MEETING OF THE SOUTHWESTERN SOCIAL SCIENCE ASSOCIATION

The thirteenth annual meeting of the Southwestern Social Science Association was held in the Baker Hotel, Dallas, Texas, March 25 and 26, 1932. The program, corrected as far as possible, was as follows:

### FRIDAY MORNING

#### Agricultural Economics Section

Chairman: VIRGIL P. LEE, Texas A. & M. College.

*Possible Adjustments in Southern Agricultural Production in View of the Outlook for Lower Prices and Reduced Foreign Demand During Next Ten Years*, P. H. STEPHENS, Oklahoma A. & M. College.

Discussion: J. G. MADDOX, University of Arkansas; R. L. HUNT, Texas A. & M. College.

*Economic Principles and Consequences Involved in Controlling Cotton Acreage by Substituting the Will of the State for that of the Individual*, A. B. COX, The University of Texas.

Discussion: L. S. ELLIS, Oklahoma A. & M. College.

*Importance of Economic Training as a Part of the Educational Equipment Needed by:*

(a) *The County Agent*, O. B. MARTIN, Texas A. & M. College.

(b) *The Vocational Agricultural Teacher*, E. R. ALEXANDER, Texas A. & M. College.

#### Economics Section

*The Depression in Laissez-Faire*, Chapter One:

*The Doctrinal Meaning of Laissez-Faire*, C. E. AYRES, The University of Texas.

*Public Utilities, An Expanding Category*, A. S. LANG, Baylor University.

*The Reconstruction Finance Corporation*, F. L. RYAN, University of Oklahoma.

#### Government Section

Chairman: FRANK M. STEWART, The University of Texas.

*Special Districts in Louisiana*, TAYLOR COLE, Louisiana State University.

*The Fee System as a Method for the Compensation of Texas County Officials*, S. B. MCALISTER, North Texas State Teachers College.

Discussion: REPRESENTATIVE WALTER BECK, Fort Worth, Texas.

*Compensation of County Sheriffs in Texas*, J. W. JACKSON, Texas Technological College.

Discussion: SENATOR GEORGE PURL, Dallas, Texas.

#### History Section

Chairman: C. L. BENSON, University of Arkansas.

Organization: Registration; election of program chairman for 1932-1933.

*The Problem of the Mississippi Choctaws*, EDWARD DAVIS, East Central State Teachers College, Ada, Oklahoma.

*The Cabeza de Vaca Trek: A Possible 400th Centennial Celebration*, CLIFFORD B. CASEY, Sul Ross State Teachers College, Alpine, Texas.

Discussion: HERBERT GAMBRELL, Southern Methodist University.

*Colonial Virginia and the Cherokee Indian Trade*, W. NEIL FRANKLIN, Southern Methodist University.

Discussion: MORRIS L. WARDELL, University of Oklahoma.

*Collections of Source Materials in the State of Oklahoma for the Study of Southwestern History*, Edward E. Dale, University of Oklahoma.

#### Human Geography Section

Chairman: C. J. BOLLINGER, University of Oklahoma.

Organization: Registration; election of program chairman for 1932-1933.

*Neolithic Man's Background of Human Geography*, FRANK CARNEY, Baylor University.

Discussion: VICTOR C. MCKIM, Texas A. & M. College.

*The International Aspects of Irrigation Along the Lower Rio Grande*, EDWIN J. FOSCUE, Southern Methodist University.

Discussion: C. J. POSEY, University of Kansas.

*Human Responses of the Ilocanoes, Illustrated*, VICTOR C. MCKIM, Texas A. & M. College.

Discussion: C. W. THORNTHWAITE, University of Oklahoma.

#### Sociology Section

Chairman: JENNINGS J. RHYNE, University of Oklahoma.

Secretary: WALTER T. WATSON, Southern Methodist University.

GENERAL TOPIC: Sociological Research in the Southwest.

*The Social Life of the Prehistoric Indians of the Southwest*, W. C. HOLDEN, Texas Technological College.

*The Assimilation of the Creek and Seminole Indians*, GEORGE M. FENTEM, University of Oklahoma.

*Children of Immigrants*, WILLIAM C. SMITH, Texas Christian University.

*The Swedes of Kansas*, C. TERENCE PIHLBLAD, University of Missouri.

#### Luncheon Conference

Presiding Officer: J. J. RHYNE, University of Oklahoma.

Subject: *A Research Program in the Social Sciences for the Southern States*.

Discussion: Leader, O. D. DUNCAN, Oklahoma A. & M. College.

### FRIDAY AFTERNOON

#### Agricultural Economics Section

Chairman: T. O. WALTON, President, Texas A. & M. College.

*The Problem of Post-Graduate Training in the South*, C. O. BRANNEN, University of Arkansas.

*Aim, Organization, and Content of Undergraduate College Courses in Economics:*

*Farm Management*, S. A. MCMILLAN, Texas A. & M. College.

Discussion: Leader, P. H. STEPHENS, Oklahoma A. & M. College.

*Farm Credit*, VIRGIL P. LEE, Texas A. & M. College.

Discussion: Leader, J. O. ELLSWORTH, Texas Technological College.

*Marketing*, W. E. PAULSON, Texas A. & M. College.

Discussion: Leader, ROY A. BALLINGER, Oklahoma A. & M. College.

*Market Prices*, B. M. GILE, University of Arkansas.

Discussion: Leader, T. R. HAMILTON, Texas A. & M. College.

Round Table Conference on Credit: Leader, J. T. SANDERS, Oklahoma A. & M. College.



**Business Administration and Economics Sections (Joint Session)**

Chairman: GEORGE W. HARRIS, Baylor University.

**Proposals to Aid Business Recovery:**

*Will Attempts at Inflation Be Helpful?* WILLIAM F. HAUHART, Southern Methodist University.

*Further Deflation (Wage Adjustments)*, EDWIN A. ELLIOTT, Texas Christian University.

*International Phases*, A. P. WINSTON, The University of Texas.

Discussion: E. T. MILLER, The University of Texas; FLOYD B. CLARK, Texas A. & M. College.

**Government Section**

Chairman: H. H. GUICE, Southern Methodist University.

*Iraq Under British Mandate*, H. C. PENDER, Texas Technological College.

*Contemporary Internal Politics of Palestine*, S. D. MYRES, Southern Methodist University.

*Survey of French Administration in Syria*, CHARLES A. TIMM, The University of Texas.

General Discussion.

**History Section**

Chairman: ASA K. CHRISTIAN, University of Oklahoma.

*The Causes of Confederate Defeat*, H. A. TREXLER, Southern Methodist University.

Discussion: A. C. BRYANT, Technical High School, Dallas.

*The Profitableness of Slavery in Mississippi*, CHARLES S. SYDNOR, University of Mississippi.

Discussion: RUPERT N. RICHARDSON, Simmons University.

*Land Speculation in Massachusetts as a Basis for Social Discontent Prior to 1776*, RALPH H. RECORDS, University of Oklahoma.

Discussion: L. W. NEWTON, North Texas State Teachers College.

*The German Ideal of a German-American State*, R. L. BIESELE, The University of Texas.

Round Table.

**Human Geography Section**

Chairman: EDWIN J. FOSCUE, Southern Methodist University.

*The Black Prairie of Texas—A Regional Study*, HARRIET SMITH, Sam Houston State Teachers College, Huntsville, Texas.

Discussion: WILLIAM T. CHAMBERS, Stephen F. Austin State Teachers College, Nacogdoches, Texas.

*Land Utilization in Leedey Consolidated School District, Dewey County, Oklahoma*, VAY H. WILLIAMS, Leedey, Oklahoma.

Discussion: HARRIET SMITH, Sam Houston State Teachers College.

*Response of the Cotton Culture Frontier in Western Oklahoma to the Intensity of Solar Radiation*, C. J. BOLLINGER, University of Oklahoma.

Discussion: ELMER H. JOHNSON, The University of Texas.

*Kilgore, Texas, an Oil Field Town*, WILLIAM T. CHAMBERS, Stephen F. Austin State Teachers College.

Discussion: DR. ELLIS SHULER, Southern Methodist University.

**Sociology Section**

Chairman: C. W. THORNTHWAITE, University of Oklahoma.

*Possibilities for Coöperative Research in the Southwest*, THOMAS C. MCCORMICK, University of Arkansas.

*Growth of Rural Trade Areas*, O. D. DUNCAN, Oklahoma A. & M. College.

*A Regional Study of the Crime Problem*, R. H. MCWILLIAMS, University of Denver.

*Unemployment in St. Louis*, FRANK J. BRUNO, Washington University.

Discussion: MRS. M. L. WOOTEN, College of Industrial Arts, Denton, Texas.

#### General Conference Dinner

Chairman: DR. C. C. SELECMAN, President, Southern Methodist University.

Presidential Address: *Disarmament*, DR. J. F. ZIMMERMAN, University of New Mexico, President of the Association.

The dinner is open to the general public.

### SATURDAY MORNING

#### Agricultural Economics Section

Chairman: C. O. BRANNEN, University of Arkansas.

*The Significance of the Russian Agricultural Program to the Southwest*, J. T. SANDERS, Oklahoma A. & M. College.

Discussion: VICTOR H. SCHOFFELMAYER, Editor, *Dallas Semi-Weekly Farm News*.

*What's Wrong With Distribution?*, F. A. BUECHEL, The University of Texas.

Discussion: T. W. LELAND, Texas A. & M. College.

Round Table Conference on the Adjustment of Research Projects in Economics to the Present Economic Status of Agriculture.

Discussion: Leader, L. P. GABBARD, Texas A. & M. College.

#### Business Administration Section

Chairman: C. C. FICHTNER, University of Arkansas.

*Business Research in the Southwest*, A. B. COX, The University of Texas.

Discussion: RAYMOND D. THOMAS, Oklahoma A. & M. College; E. C. PETTY, University of Oklahoma.

#### Economics Section

*The Depression in Laissez-Faire*, Chapter Two:

*The Passing of Laissez-Faire in the Oil Industry*, JACK JOHNSON, North Texas State Teachers College.

*Unemployment Insurance*, J. B. EWING, University of Oklahoma.

*The Retreat from Laissez-Faire*, RUTH ALLEN, The University of Texas.

#### Government Section

Chairman: B. Y. THOMAS, University of Arkansas.

*The Theory and Technique in the Teaching of Government and Citizenship*, A. S. WHITE, University of New Mexico.

Discussion: THOS. B. DONNELLY, New Mexico State Teachers College.

*Research Technique in the Field of Political Parties*, ROSCOE C. MARTIN, The University of Texas.

Discussion: HUGO WALL, University of Wichita.

*Research Technique of the Hoover Commission Study on Political and Social Trends*, ROYDEN J. DANGERFIELD, University of Oklahoma.

General Discussion.

**History Section**

Chairman: LANSING B. BLOOM, University of New Mexico.

*Commercial Conditions in Mexico at the End of the Colonial Period*, LILLIAN FISHER, Oklahoma College for Women.

Discussion: T. H. REYNOLDS, Oklahoma A. & M. College.

*The Present Status of the Church in Venezuela*, MARY WATTERS, Arkansas State A. & M. College.

Round Table.

*Conceptions and Misconceptions About Latin America*, JOHN RYDJORD, The Municipal University of Wichita.

**Human Geography Section**

Chairman: WILLIAM T. CHAMBERS, Stephen F. Austin State Teachers College.

*Regional Economics and Human Geography*, ELMER H. JOHNSON, The University of Texas.

Discussion: C. J. BOLLINGER, University of Oklahoma.

*The Problem of the Meat Foods*, C. J. POSEY, University of Kansas.

Discussion: O. D. DUNCAN, Oklahoma A. & M. College.

*A Geographic Atlas of Oklahoma*, C. W. THORNTHWAITTE, University of Oklahoma.

Discussion: VAY H. WILLIAMS, Leedey, Oklahoma.

*The Ypsilanti Meeting of the National Council of Geography Teachers*, VICTOR C. MCKIM, Texas A. & M. College.

Discussion: EDWIN J. FOSCUE, Southern Methodist University.

**Sociology Section**

Chairman: H. L. PRITCHETT, Southern Methodist University.

Business Matters.

*Trends in the Teaching of the Elementary Course*, WARNER E. GETTYS, The University of Texas.

*Some Problems Facing the American Sociological Society*, L. L. BERNARD, Washington University.

Discussion: PAUL BAKER, Texas Christian University.

*The Nature of the Public*, CARROLL D. CLARK, University of Kansas.

Discussion: D. E. PROCTOR, Baylor University; GEORGE ERICKSON, Oklahoma A. & M. College.

*Social Reorganization*, ALVIN GOOD, Louisiana State Normal College.

**SATURDAY NOON**

The thirteenth annual business luncheon and meeting was attended by fifty members. President Zimmerman presided at the business session. The usual order of business was followed, to-wit: Minutes of the Twelfth Annual Business Meeting were read and were approved as read; the Secretary-Treasurer reported on membership and finances as follows:

**1. Report on Membership, April 1, 1931, to March 15, 1932**

Classes of Membership	No. April 1, 1931	Cancelled	Added	Net Gain	No. March 15, 1932
Life (M. K. Graham) _____	1	—	—	—	1
Contributing _____	3	—	—	—	3
Sustaining _____	2	—	—	—	2
Active _____	296	23	60	37	333
Totals _____	302	23	60	37	339

## 2. Financial Statement, April 1, 1931, to March 15, 1932

## RECEIPTS

Membership:	
Contributing .....	\$ 20.00
Sustaining .....	10.00
Active .....	839.45
Total .....	\$ 904.01
Sale of Publications .....	23.75
Refund on Reprints .....	98.80
Luncheon and Dinner Tickets, 12th Convention .....	187.50
Advertising .....	18.75
Total Receipts .....	\$1,232.81

## EXPENSES

Printing:	
March (1931) Quarterly .....	\$280.50
June Quarterly .....	286.80
September Quarterly .....	264.60
December Quarterly .....	221.40
Total .....	\$1,053.30
Reprints .....	147.00
Programs and Tickets, 12th Convention .....	25.15
Total Printing .....	\$1,225.45
Clerical Help .....	105.50
Transportation and Hotel Bill, 12th Convention .....	47.40
Stenographic Supplies and Stamps .....	50.53
Post Office Deposit .....	11.65
Convention Dinner and Luncheon, 12th Convention .....	185.25
Address Labels .....	2.00
Total Expenses .....	\$1,627.78
Deficit for Current Year .....	\$ 395.97
Balance from 1930-1931 .....	290.08
DEFICIT, MARCH 15, 1932 .....	\$ 104.89
Cash on Hand, March 15, 1932 .....	\$135.91
Press, December Issue, <i>Unpaid</i> .....	240.80
Deficit .....	\$ 104.89

The Secretary-Treasurer emphasized the matter of financial aid and the need for an enlargement in membership. He reported, however, that temporary relief was secured through an appropriation of \$500.00 by the Committee on Research in the Social Sciences at The University of Texas for the publication of research articles in Southwestern subjects.



Professor S. D. MYRES, Jr., made the report of the auditing committee. He expressed the committee's approval of the financial statement for the year 1931-1932 as rendered by the Secretary-Treasurer.

PROFESSOR E. G. SMITH reported for the Board of Editors of the QUARTERLY and called the attention of the membership to a change in editorial policy, to-wit: additional emphasis is to be given to Southwestern articles either as to subject matter or as to authorship. PROFESSOR SMITH also urged the members to submit articles on Southwestern subjects. He presented the following data on the QUARTERLY.

1. Manuscripts for 1931-1932:

Manuscripts on hand	16
Manuscripts printed	22
Manuscripts returned	28
Total	66

2. Origin of Articles Printed:

Schools represented	18
States represented	14
Foreign countries	0
Individual contributors	22

3. Distribution of Articles:

a. By Subject Matter  
Volume XII:

	Southwestern	All Other
No. 1	32.9	67.1
No. 2	0	100
No. 3	18.1	81.9
No. 4	75.9	24.1

b. By Authorship

Volume XII:

No. 1	68.7	31.3
No. 2	34.7	65.3
No. 3	78.7	21.3
No. 4	61.3	38.7

c. By Fields:

Agricultural Economics	2
Business Administration	1
Economics	3
Government	9
History	4
Sociology	3
Philosophy	0

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The committee on nominations composed of DEAN A. B. ADAMS, Chairman, PROFESSOR A. S. WHITE, and PROFESSOR W. T. WATSON, proposed the following officers for the Association for the coming year, PROFESSOR WHITE making the report:

President: DR. J. Q. DEALEY, Dallas, Texas.

First Vice-President: PROFESSOR C. A. M. EWING, University of Oklahoma, Norman, Oklahoma.

Second Vice-President: Professor C. O. BRANNEN, University of Arkansas, Fayetteville, Arkansas.

Third Vice-President: PROFESSOR W. C. HOLDEN, Texas Technological College, Lubbock, Texas.

Elected Members of the Executive Council: PROFESSOR PIERCE CLINE, Centenary College, Shreveport, Louisiana; PROFESSOR WM. F. HAUHART, Southern Methodist University, Dallas, Texas.

This report was accepted intact by those present and PRESIDENT ZIMMERMAN declared the foregoing nominees duly elected.

The committee on resolutions, composed of PROFESSOR D. Y. THOMAS, PROFESSOR W. E. GETTYS, and PROFESSOR WM. F. HAUHART, proposed the following resolutions:

RESOLVED, That the thanks of the Association be expressed to the Committee on Local Arrangements and to the faculty and students of Southern Methodist University, who have contributed to the success of this meeting, and to the Press for the splendid reporting of the sessions;

RESOLVED, That the Association extend an invitation to the American Economic Association, the American Political Science Association, the American Sociological Society, the American Association for Labor Legislation, the American Statistical Society, and the American Community Center Association to hold their annual meetings in Dallas, Texas, in 1933 or as soon thereafter as convenient;

RESOLVED, That a committee of five members of the Association be appointed and that they request the Dallas Chamber of Commerce to cooperate with them in extending this invitation and in securing these meetings.

These resolutions were accepted as read.

Under miscellaneous business PROFESSOR J. J. RHYNE presented to the membership the proposal that the Association set up a research committee for the purpose of fostering research in the Social Sciences in the Southwest to cooperate with the Southern Regional committee of the Social Science Research Council. It seemed advisable, urged PROFESSOR RHYNE, that there should be such a committee to take steps toward formulating a definite cooperative research program in which the various social scientists in the Southwestern area might cooperate. In no case should this committee or any plan it might formulate interfere with research already under way or projected and for which definite appropriations have been received. The committee should be representative of the different Social Sciences affiliated with the Association and as nearly as possible to the several states included in the membership of the Association. This proposal was discussed in the luncheon conference on Friday, March 25. After discussion the membership approved the motion that a committee of research of the Southwestern Social Science Association should be appointed.

PRESIDENT ZIMMERMAN then declared the Thirteenth Business Meeting of the Southwestern Social Science Association adjourned. After the business meeting adjourned, the Executive Council met to consider certain important matters with regard to the policy of the Association and of the QUARTERLY.

The Council elected the following officers: Board of Editors, R. H. MONTGOMERY, EVERETT G. SMITH, C. PERRY PATTERSON; Advisory Board of Editors: V. P. LEE, C. A. WILEY, Agricultural Economics; J. B. TRANT, VERNON G. SORRELL, Business Administration; FLOYD VAUGHAN, E. A. ELLIOTT, Economics; C. L. BENSON, C. W. PIPKIN, Government; R. L. RICHARDSON, W. C. HOLDEN, History; W. P. MERONEY, W. E. GETTYS, Sociology. Program Committee: R. L. BIESELE, Chairman and History Section; J. P. GABBARD, Agricultural Economics Section; ROSCOE C. MARTIN, Government Section; E. E. HALE, Economics Section; E. H. JOHNSON, Human Geography Section; T. C. MCCORMICK, Sociological Section; FLOYD VAUGHAN, Business Administration Section; KARL REYER, Secretary, Business Administration Section.

J. L. MECHAM was chosen Secretary-Treasurer for the coming year.

## BOOK REVIEWS

EDITED BY O. DOUGLAS WEEKS

*The University of Texas*

Riker, T. W., *The Making of Roumania. A Study of an International Problem, 1856-1866*. (London: Oxford University Press, 1931, pp. x, 592.)

Professor Riker's study of the making of Roumania deals with the period from the Conference of Vienna in March, 1855, to the recognition of Prince Charles by the powers in 1867, and the extension to the latter date is one of the most valuable features of an impressive piece of work. There has been in recent years a considerable growth of interest in Roumanian history, but no such comprehensive study of the origins of the state has hitherto been attempted, and the present work not merely supersedes all previous studies in the field but offers, after examining the crisis of 1855-1859, a detailed account of the diplomatic history of Couza's regime from 1859-1866, a subject hitherto almost entirely ignored. Few would be disposed to quarrel with Mr. Riker's choice of the latter date as completing the "making" of Roumania, although recognition by the powers of the formal independence of the state was not finally secured until 1880, and then only at the cost of territorial sacrifices and religious and social legislation which considerably modified the international outlook and internal policy of the country.

From the middle of the 19th century the Near Eastern Question is casting its grim shadow over European diplomacy, and an accurate knowledge of the Near Eastern nationalist movements of the period is essential to an understanding of the international crises which culminate in war in 1914. Nevertheless the east end of Europe has not received anything like the attention due to it, and the peculiar difficulties of research in the field perhaps explain this comparative neglect. Thus the present study has necessitated the use of printed and manuscript material in five languages, and visits to the Public Record Office, British Museum, and Royal Archives (at Windsor) in England; to the Reichsarchiv in Berlin; and to the Staats and Kriegsarchiv in Vienna. Even so there are no doubt important collections of documentary material at present inaccessible in Russia, Roumania, and Turkey. As far as Professor Riker's work is concerned it can be said that little is likely to be added to his story of the making of Roumania for this generation at least, and the absence of similar studies of other phases of modern Balkan history is evidence of the unusual achievement that the monograph represents.

The coercion of an apparently defenseless Balkan state was in practice no easy matter, and such incidents as the double election of Couza supply clear evidence of the virtual powerlessness of the powers, the state of deadlock into which the modern Near Eastern Question was always tending to fall. In 1878 Europe was in a position to take or withhold from Roumania many things that she desired, but the circumstances there were decidedly not typical. More frequently the powers were too suspicious of one another's intentions to allow the intervention which would reverse a local *fait accompli*. When Austria in 1858-1859 tried to obstruct the union by refusing to visa Wallachian passports if they bore the inscription "the United Principalities of Moldavia and Wallachia" Couza retaliated by treating the 100,000 or so Austrian nationals as being amenable to the local courts, and Austria



soon realized that the position gave the "Moldavian and Wallachian governments a distinct advantage in dealing with a power that was helpless in the last resort to use coercive measures" (p. 230). In the circumstances French diplomacy, although the emperor allowed it to run into some embarrassing deadlocks, finally carried the day; for it demanded, in effect, the acceptance of the solution which the principalities themselves preferred. Thus by 1859 the recognition of Couza's double election had shown "that an international protectorate was too hollow to withstand a vigorous demonstration of nationalist self-assertion, even though that demonstration was unaccompanied by some of the usual features of revolution;" hence, in spite of his undistinguished antecedents "the recognition of the Powers brought to Couza the realization that he might now consider himself indefinitely the ruler of his country" (p. 250). Couza's troubles really began after his installation in office, and it was his own countrymen, rather than the powers, that ended his political career. The question of Couza's successor once again created international dissension, and once again Roumania's own wishes prevailed. "Europe, constituted *en aréopage*, gives the air of following the impulse of a little state of the third order" grumbled Gorchakov in April, 1866 (p. 540). At the same time outbursts of anti-Jewish Fanaticism showed that the new prince was also likely to find his own subjects harder to handle than the powers.

Mr. Riker's elaborate and scholarly monograph supplies a better balanced study than any yet attempted of the peculiar interaction of local and international factors characteristic of the modern Near Eastern Question, and there is little doubt that it will at once take its place as a model for similar studies in this field.

W. N. MEDLICOTT.

The University of Texas.

Young, C. Walter, *Japan's Special Position in Manchuria: Its assertion, legal interpretation and present status*. (Baltimore: Johns Hopkins Press, 1931, pp. xxxiv, 412.)

Young, C. Walter, *The International Legal Status of the Kwangtung Leased Territory*. (Baltimore: Johns Hopkins Press, 1931, pp. 279.)

Young, C. Walter, *Japanese Jurisdiction in the South Manchuria Railway Areas*. (Baltimore: Johns Hopkins Press, 1931, pp. 368.)

Each of these volumes is complete in itself, and may be read independently of the others. The three together comprise a series on *Japan's Jurisdiction and International Legal Position in Manchuria*. In light of the present crisis in Manchuria these volumes have an unusual interest and significance. They constitute the best published statement of the rights of the Japanese in the disputed areas. They are not history but rather studies in politics and international law. The materials of the historian have been used for the purpose of furnishing the background and to present the sequence of events which is essential to the description and evaluation of the claims of both China and Japan. In another sense, these are not studies in the field of Economics. But, as economic facts are intimately bound up with those of politics and law, the three volumes are filled with material of interest to the student of international economic relations. This is especially true of the first volume: *Japan's Special Position in Manchuria*. The studies are not entirely devoted to diplomacy, foreign policy, or colonial administration.

They are attempts to analyze the legal status of the territory involved. The volume on the Kwantung lease is primarily a study in international law, although the international law of this subject is oftentimes reported as being entirely too confused to offer a definite status for the territory.

In the first volume Dr. Young traces the development of Japan's legal position in Manchuria. The Russian and Japanese spheres of railway interests are adequately described; the cession of Russian rights to Japan is carefully analyzed. Then follows the claims of Japan to special interests such as those developed during the periods: 1910-1915; 1916-1918; 1918-1922. Not the least important part of this volume is the section assigned for analysis of Japan's "Right to Live Doctrine," and to the "Asia Monroe Doctrine." The volume is carefully documented and is a complete guide to material not easily accessible.

The second volume deals with the legal status of Kwangtung Leased Territory. The author points out that this territory defies classification under any of the usual definitions. The legal phases of the lease are clearly set forth; China's right to recover the territory is analyzed; Japanese claim for the sanctity of treaties is explored. The author has attempted to analyze the status of this territory and to answer both Japanese and Chinese contentions under the rules of international law. Appended to the volume are the texts of the Sino-Japanese notes of 1915.

Volume three deals with the legal rights of Japan in the South Manchuria Railway areas. The early development of the Russian position in the area is discussed and the cession of those rights to Japan is carefully chronicled. The author has done more than to give a mere legal analysis of the position of the railway areas. He deals with the growth of the territory and of the enlargement of the spheres of interest of Japan in the region. The volume is invaluable to one who desires a clear understanding of the Japanese jurisdiction in the South Manchuria treaty ports and railway centers. The position of Mukden, of Yingkow, and of Antung is carefully presented and analyzed.

Together the three volumes constitute an excellent treatment of Japanese rights in China. The story covers the whole period from the opening up of parts of China to the present time. The Sino-Japanese War and its diplomacy; the diplomacy of the Russo-Japanese conflict; and the "twenty-one demands" of 1915 receive unexcelled treatment. The position of both Japan and China at the Washington Arms Conference is adequately handled. On the whole, this series constitutes the most complete study of the legal position of Japan in China that has as yet been published.

R. J. DANGERFIELD.

The University of Oklahoma.

Kuczynski, Robert R., *The Balance of Births and Deaths*, Volume II: *Eastern and Southern Europe* (Washington, D. C.: The Brookings Institution, 1931, pp. 170.)

This book is the second of a series of studies which Dr. Kuczynski is making in order to ascertain the rate of reproduction of populations. Volume I deals with Western and Northern Europe.

On the face of it, the problem of ascertaining the rate of reproduction of a population seems simple enough. Apparently the solution consists of merely striking the balance between births and deaths. To illustrate, if the

birth rate per thousand of population is 25 and the death rate is 15, the net increase per annum is 10 per thousand or one percent. Yet a casual inspection of vital statistics will show that if conditions of fertility and morbidity are changing, the composition of the population as to age distribution is different from what it would have been if these conditions had been constant. For example, if fertility and morbidity are declining, the number of people between the ages of 15 and 50 is a larger percent of the total population than would be the case, if these factors are constant. If such is the case, then, the crude birth rate overstates the conditions of fertility, and the crude death rate understates the conditions of morbidity.

To correct such conditions Dr. Kuczynski has evolved two methods. The first, which he used in Volume I, works out a net reproduction rate which shows the balance of births and deaths in a population whose age distribution is that of a *stationary* population, that is of the population constantly subject to the mortality indicated by the life tables. In Volume II this earlier method is refined by computing the balance of births and deaths in a population whose age distribution is that of a *stable* population, that is of the population constantly subject to the mortality indicated by the life tables, but also constantly subject to the fertility indicated by the present fertility rates. Through the use of these methods refined birth and death rates may be obtained the difference between which, expressed as a percentage of the total population, will indicate the conditions of reproduction. Dr. Kuczynski's net reproduction rate, however, states conditions in a simpler and perhaps more striking way. Generally speaking, this rate expresses the relationship existing between the number of present mothers and the number of future mothers. For example, if of 1000 female children born in any year, the survivors, who reach the child bearing age, give birth to 1000 living female children, the female population is just maintaining itself; and the net reproduction rate is expressed as 1. If the rate is 1 plus, the female population is increasing; if the rate is 1 minus, the female population is decreasing. To illustrate further, if the net reproduction rate is 2, then the female population is doubling every generation.

Applying his methods to the data of vital statistics for the areas under consideration, Dr. Kuczynski concludes that in Austria, in the western provinces of Czechoslovakia, in Estonia, and in Latvia 100 mothers give birth to less than 100 future mothers; that the conditions here are about the same as in Western and Northern Europe. If fertility does not rise again, the population is doomed to die out whatever may be the course of mortality. In all other areas under consideration the population is more than holding its own, although everywhere the rate of reproduction is declining; most slowly in Russia, most rapidly in Italy.

These studies of Dr. Kuczynski's make a very interesting and important contribution to the literature of demography for the following reasons: (1) he has made the first serious attempt to solve the problem of reproduction rates; (2) his methods, while exceedingly simple, are highly ingenious; (3) he limits himself to making as accurate a statement as possible of the facts as they now stand. He makes no attempt to analyze the causes or consequences of the population trends. Nor does he attempt to forecast the future trend of population; and (4) he presents in one small volume

a vast amount of vital statistics which otherwise would not be available for the ordinary student of demography.

R. A. Cox.

The University of Texas.

Brinton, Clarence Crane, *The Jacobins*. (New York: The Macmillan Company, 1930, pp. x, 319.)

Students of Political Science in recent years have found themselves confronted by an ever-increasing volume of words concerning the "scientific method" as applied to politics; and if the reviewer is not misinformed, those who profess primary interests in other of the social sciences have been similarly beset by an ever more voluminous literature on method. Method in the social sciences, however, appears to have enjoyed some such position as that attributed by Mark Twain to the weather, for while many have written at length on the subject, few have attempted to do anything about it.

In the volume under examination, Dr. Brinton has made an effort to "do something about it." He has not discussed method at any considerable length, and his work is not, therefore, another treatise on methodology; rather is it an example of what may be expected when the student essays to put into practice the teachings of what some would call the more advanced thinkers of the social sciences. It is, in short, precisely what the sub-title claims for it, "an essay in the New History." To be sure the author has used the standard works on the Jacobins and Jacobinism, but he has done much more than re-hash those works. He has gone into the towns (some two hundred of them) where were found active Jacobin clubs and has examined there all the local records upon which he could lay his hands. Most interesting among those materials, perhaps, were the journals of the clubs themselves, which revealed much to the inquiring eye of the investigator. He has explored further numerous other documentary sources, keeping constantly in mind that objectivity about which we have heard much of late but seen too little. His data, as a result, are very definite and concrete for the most part, and indeed a not inconsiderable portion of his findings have been reduced to figures and printed in a number of tables as an appendix to the book.

One is not to conclude from the emphasis which the reviewer has placed on method that the work has little merit in its content. On the contrary, the author has given us a highly interesting picture of the Jacobin and his club, treating the subject under the chapter headings: "Organization," "Membership," "Tactics," "Platform," "Ritual," and "Faith." These are not, as may be seen, the topics ordinarily dealt with in studies of an historical nature, and the reader's initial inference that the author's freshness in point of view has led him to a fresh method of treatment is proved on closer examination of the book to have been a valid one. Dr. Brinton recognizes the shortcomings of his study, but if he has failed to develop a definite system of laws for revolutions and revolutionists, he has nevertheless drawn a life-like picture of Jacobin politics, and for this he deserves the thanks of the reader.

The mechanics of the work are worthy of brief mention. The book is well—shall we say excellently?—written, and Macmillan has made a handsome little volume of it. The footnotes (of which there is a generous number) are not footnotes, since they appear at the end of the book; and if this



method adds to the readableness of the text, one might yet wish, from considerations of convenience, that the publishers had followed the orthodox system.

ROSCOE C. MARTIN.

The University of Texas.

Rogers, James Harvey, *America Weighs Her Gold*. (New Haven: Yale University Press, 1932, pp. 245.)

In this interesting little volume, the author, who is Sterling Professor of Political Economy in Yale University, attempts to put the various questions relating to international trade balances and their resultant influences upon national business and economic conditions so that they may be understood by a larger percentage of the citizens of the United States than are now intelligently conversant with these theses of the "dismal science." It is an admitted attempt at popularization, which may, or may not, according to the individual viewpoints of the readers, be justified. However, there are several contentions that must provoke serious thought.

The author maintains, with some verve, that America was catapulted to the position as financial leader of the world by an abnormal situation—the War. Thus, without the necessary training, the American financiers, and especially the American public, were supposed to perform intelligently the duties of this position. Yet, upon closer scrutiny, one finds that the American public attempts to implement an isolationist and a rural concept of political economy, and thereby to fulfill the obligations of the new responsibility. Chaos results, and a promising fallow for demagogues and unbuttoned political panaceas.

To furnish evidence of this failure to grasp the fundamentals of the altered financial status of the United States, the author points to the general dependence on a high protective tariff policy. Political leaders of both parties place great store upon the argument that unscalable tariff walls offer the most effective protections to the American standard of living, to the "full dinner pail" of the American workmen, and to the general health of American business. Yet, the present depression arises at a time when there exists the most comprehensive and protectionist tariff that the politicians have ever enacted! Wherein lies the weakness of the popular presumption? If prosperity necessarily results from high protection, why is business leaving America for other countries? Is not protection, after all, a short-sighted policy?

"Among the most illuminating anomalies of our so-called advanced civilization," says Professor Rogers, "is the gold standard." (p. 209.) To possess it is but to assume trying obligations. Why shouldn't France and the United States be permitted to take the whole supply? "Certainly no greater political joke could be played on them. Such a solution, however, to the world's immediate ills is as unrealizable as it is intelligent." These pithy statements reveal the viewpoint of Professor Rogers. One may, or may not, agree with him, but an admission of the cogency of his argument is imperative. But, one might ask, why American citizens support so consistently the theory and practice of the gold standard—they are dupes to the demands of an historic tradition.

CORTEZ A. M. EWING.

The University of Oklahoma.

Faulkner, Harold Underwood, *The Quest for Social Justice*. (New York: The Macmillan Company, 1931, pp. xvii, 390.)

This book, the Volume XI of a series of twelve on *A History of American Life*, edited by A. M. Schlesinger and D. R. Fox, is a history of the years 1898-1914. The author's effort to make his story and interpretation attractive to the general reading public is reflected in a refreshing, stimulating style, interest-intriguing illustrations, and a clear, graphic presentation. But the attempt to popularize his work did not bring with it superficiality. An accurate picture of American life in its political and economic aspects, its religious, scientific, and cultural phases, and even of America at play, is presented. Frequent footnote references and a "Critical Essay on Authorities" which constitutes the last chapter of the book and serves in the place of a bibliography give a pleasing air of authoritativeness to the whole. This "Essay" is an attractive feature for those who may care to pursue further study of some phase of American civilization in this period. "Physical Survivals" and bibliographical material listed and characterized, although not exhaustive, cover the era fairly comprehensively, the bibliographical material being classified both according to subject matter and according to source. The book is surprisingly free of mechanical errors; the author's rhetoric is excellent; and but one grammatical error (see p. 265, lines 8 and 9) mars his composition. According to the author, at the turn of the century fortune-hunting America was "in peril of losing her soul" in the slough of materialistic greed. But new conditions, resulting from the growth of cities, increasing industrialization, the disappearance of free land, and other factors, wove new strands into the fabric of American life in the ensuing decade. "The quest for social justice" in its varied manifestations struck at many maladjustments in our civilization and accomplished (and in part was the result of) a tremendous revolution in public opinion. The old *laissez-faire* individualism of great economic freedom and severely limited government gave way to the community spirit and a philosophy of intelligent social control—a change that was inevitable with the coming of our economic maturity. The "quest" carried with it also political reform that would re-insure popular control of government, conservation, prohibition of the liquor evil and adulterated foods, social legislation for the protection of women and children laborers from industrial hazards and exploitation by employers, the growth of the labor and feminist movements, and the progress of our religious and educational institutions. Our intellectual maturity the author saw in the trend toward realism in the artistic world and in the readiness to adapt the best of foreign innovations in governmental institutions as well as in the field of "human relations" to our own life. With confident enthusiasm and buoyancy America during the years preceding the World War had striven to set its house in order and "had made the nation a better place to live in for the common man."

AUGUST SPAIN.

Yale University.

Seton-Watson, R. W. (Editor), *Slovakia Then and Now*. (London: George Allen & Unwin, 1931, pp. 356.)

Dr. R. W. Seton-Watson, who holds the Masaryk professorship of Central European history in the University of London, was intimately connected with the revolutionary movement of Professor T. G. Masaryk and Dr. Benes

abroad, which resulted in the formation of the Czechoslovak Republic. Seton-Watson's publications before the World War were among the first important ones to call the attention of Europe to the internal problems of Austria-Hungary and its minorities.

The editor of this volume gave us a study of Slovakia in 1924, and his publication appeared both in Czechoslovak and in English. While this study was of undisputed merit, the present book deserves even greater praise, because the author has been able to gather here excellent articles by the leaders of all political and cultural movements in Slovakia today, so that we hear from a Catholic bishop, three Catholic priests, two Lutheran ministers, deputies, senators, lawyers, and creators of literature and art. Most of the articles are devoted to the political development of Slovakia since the World War, but a definite attempt has been made to compare the present situation with the conditions under which Slovakia had to live, if it lived at all, during the Magyar regime.

Thus the volume has a definite political thesis, which is to justify the present regime. The periodical reports from Central Europe must convince every observer that the union of Slovaks and Czechs presents numerous political problems which are still unsettled. But whatever arguments are used by the antagonists to the new arrangements, this volume must convince the reader that the situation, on the whole, is much better, if indeed any comparison can be made at all, than the incorporation of Slovakia within the Hungarian Kingdom.

It is impossible to review all the articles incorporated in the volume, except to say that most of them are of high critical value. Possibly the foreign observer will find Seton-Watson's introductory article of most interest. In less than sixty pages, the editor discusses briefly the history of the Czechoslovakia, contemporary political problems of the Republic, and especially the religious problems of Slovakia, in addition to the old question of centralism, self-administration, the Pittsburg agreement, Rothermere's campaign, Tuka's trial, etc. The value of the volume is enhanced by numerous photographs of political personalities, though the incorporation of the pictures of the countryside into this publication, intended as a "Political Survey" (as we are told in the sub-title), is of doubtful value. An excellent map of the Czechoslovak Republic is also included. The volume is indispensable for anyone interested in the problems of Central Europe.

JOSEPH S. ROUCEK.

Centenary Junior College, Hackettstown, N. J.

Bruce, Kathleen, *Virginia Iron Manufacture in the Slave Era*. (New York: The Century Co., 1931, pp. xiv, 482.)

The popular opinion of the *ante-bellum* United States pictures an industrial North and an agricultural South. This theory recognizes the existence of agriculture in the industrial North, but seldom recognizes the existence of manufacturing in the agricultural South. Hand in hand with this tradition goes the belief that the negro slave could be of no service to an industrial community.

Dr. Kathleen Bruce has searched the records of the Tredegar Iron Works, and finds conclusive proof of the existence in pre-war Virginia of a well developed iron industry which was largely dependent upon the labor of negro slaves.

The Virginia iron industry had its beginning before 1610 in the attempts of some of the earliest settlers to establish iron works in the new land. These pioneers were more industrious than successful, and no large iron work was developed during the colonial period. In 1775 the Virginia assembly launched the future state upon the manufacture of iron—particularly instruments of war. The plant, which began operation in 1779, was largely dependent upon slave labor, and furnished invaluable guns and supplies to the American revolutionary army. The state of Virginia resorted to similar activity in 1800.

In 1795 Thomas Jefferson, who dreamed much of a commonwealth of farmers, resorted to the manufacture of nails as a means of regaining prosperous circumstances. The Jefferson nail manufacturing establishment was operated by a dozen slaves.

The Tredegar Iron Works had its beginning in 1836, and twelve years later became the property of Joseph Reid Anderson, the most important figure in the history of the company. Anderson was quite capable, and was one of the first to bring "big business" to the South. By 1860 the company was operating on a large scale, and numbered among its customers the federal government and the railroads of the South. The plant was prepared to produce all kinds of war supplies, and was essential to the welfare of the South. This fact may have had much to do with the removal of the Confederate capital from the lower South to Richmond. Certainly the fact that most of the arms and artillery used by the Southern troops were made in Richmond offers a plausible explanation of the determination of the Confederate government to hold Richmond to the end. The plant continued to operate until April 3, 1865. The output for the first three months of 1865 was no less than it had been during the same period of the preceding year.

The book is detailed, but interesting. There is a valuable appendix, a complete bibliography, and an index.

RALPH STEEN.

The University of Texas.

Orth, Samuel Peter, and Cushman, Robert Eugene, *American National Government*. (New York: F. S. Crofts & Co., 1931, pp. xi, 766.)

Myers, William Starr, *The American Government of Today*. (New York: Harper & Brothers, 1931, pp. viii, 563.)

In that never-ending stream of textbooks on American government that flows from the printing presses of the United States, few works can be singled out as possessing style, subject matter, and even *infrequent* originality that would make them helpful and useful as college textbooks. Among those works on American national government alone that deserve honorable mention and consideration is the one written by the late Professor Orth and Professor Cushman. For the most part the treatment is the traditional one, save that the presentation of material is not marred by an over-emphasis of details or a lack of appreciation of their rightful value when properly used. Furthermore, as the authors state in their preface, emphasis has been placed on "constitutional development and interpretation" and "more detailed and concrete treatment given to the problems of government, politics, and constitutional law with which it deals." For this reason, it may be doubted that sufficient attention has been paid to the organization and functioning of, and problems facing, the national administrative system.



With this one exception, however, the treatment in a book of this nature is entirely adequate. The chapter on "Citizenship and Constitutional Rights," the two chapters on the federal judiciary, and the first two chapters on "Foundations of American Democracy" and "The Rise of American Nationalism" deserve special mention. Throughout the book the style is clear and interesting, the presentation of facts is never monotonous, and the treatment is thorough. Such a book may be recommended for courses in American national government.

The book by Professor William Starr Myers is a survey of American government, national, state and local, in which an attempt has been made to describe the actual government of the United States as it exists today without including a mass of detail and statistical matter. As a brief summary of American government the author has effected his purpose; however, in certain respects, the inclusion of more details would be beneficial to the student without burdening him too seriously. It is necessary, nevertheless, in a book of less than six hundred pages that attempts to cover such a broad field to leave out many points which to many would appear important. Possibly in an elementary course, where details are supplied by the instructor and outside reading is assigned, this book would serve as an adequate text.

J. A. BURDINE.

The University of Texas.

Boyd, Minnie Clare, *Alabama in the Fifties: A Social Study*. (New York: Columbia University Press, 1931, pp. 263.)

This book, a doctoral dissertation at Columbia University, gives a good account of life in one of the newer states of the lower South in the decade before secession. It begins with a description of the physical characteristics of Alabama and of the origins and distribution of its people. Then follow chapters on the state of agriculture, manufacturing, travel and transportation, the types of homes, the status and progress of education, religious organizations, health conditions (with special emphasis on the prevalent diseases and the struggles of the medical profession to cope with them), the leaders of public opinion, mostly editors and lawyers, and social life. Alabama was still in large part a pioneer state in 1850 and the mass of its people lived not unlike their frontier parents had done; but the next ten years witnessed considerable progress in wealth and refinements. Although committed overwhelmingly to cotton culture, the planters supported agricultural fairs and farm journals which did much to improve breeds of stock and to bring about some diversification of crops. Some of the main highways were improved, a few railroads were built and others projected; but travel remained difficult and in some respects dangerous. A system of public education was instituted in 1854 and, despite the handicaps of inexperience and local indifference, was making rapid progress by the end of the decade. One of the most interesting chapters is that entitled "Skirmishes Against Disease and Crime," especially the portion which deals with the baffling diseases incident to the hot summers—yellow fever, malaria, and typhoid. The effects of these annual visitations upon the habits and institutions of the people of the Gulf States has been too little taken into account by the historians.

Altogether, the book presents an excellent picture of an agricultural people struggling out of the hardships of pioneer life toward a moderate

amount of wealth and polite culture, hopeful of the future and unaware of the blight which was soon to come upon their land with the Civil War. The style is easy without ever being brilliant, and is enlivened here and there by flashes of humor. Unfortunately, a number of typographical errors mar the mechanical excellence of the book. A map, showing the principal sections, cities and roads of the state, would have been a welcome addition. There is a very satisfactory bibliography and a good index.

CHARLES W. RAMSDELL.

The University of Texas.

Duncan, Hannibal Gerald, *Backgrounds for Sociology*. (Boston: Marshall Jones Company, 1931, pp. xx, 831.)

This book is what its title claims for it; it is a background or basis for sociology. It does not claim to be even an introduction to sociology, but merely a *background*. The same fairness and honesty is characteristic of the entire volume. The book presents a large amount of factual material with which the student should be familiar before attempting a study of sociology. The book is divided into five parts. Part I serves as an introduction to the volume. Part II devotes five chapters to a discussion of population problems, a field of study which is receiving increased attention. Part III is devoted to a study of our major social problems and conditions. The chapter headings of this section are: "Rural Problems," "Urban Problems," "The Negro Problem," "Immigration, Health, Play and Recreation," "Mental Defectives and the Mentally Diseased," "The Dependent and the Physically Handicapped," "Poverty and Pauperism," "Crime," and "The Treatment of Offenders." Part IV deals with the fundamental social organizations: the family, school, state, church, and industry. This treatment shows how these institutions have developed historically and how they have become different from place to place and from age to age on account of the differences in the environmental influences. Part V in brief scope discusses certain fundamental principles of sociology which are coming to be quite generally used in the analysis of human behavior.

All too often students assume that there is only one position which may be taken on certain issues; they tend to accept the author's idea uncritically. One of the chief values of this book is that it presents in an objective and unbiased manner several positions on controverted points. The author does not pussyfoot even in presenting positions which are not conventionally accepted. He has no pet idea to push but presents all sides fairly, though critically.

Each chapter has a carefully selected reading list for further study. The questions appended to each chapter are stimulating—many of them have come out of real experience and are not mere arm-chair fancies.

WILLIAM C. SMITH.

Texas Christian University.

Jacobson, J. Mark, *The Development of American Political Thought, A Documentary History*. (New York: The Century Company, 1932, pp. xiv, 723.)

In presenting this collection of documentary sources illustrative of American political thought Dr. Jacobson seeks to emphasize the relationship between theory and practice. He fears that many teachers of political

thought "make the clouds their classrooms" and fail to give "nourishment to worldly mortals," whereas true political thought is based upon practical controversies and geographic, social, economic, and cultural conditions. These thoughts guided him, therefore, in the selection of materials.

This purpose he accomplishes best, perhaps, in his rather lengthy and commendable essays with which he prefaces each chapter, and in which he summarizes the forces at work for the period under consideration. Except for the last two chapters, however, the source materials presented are the usual ones considered in any comprehensive course in American political thought. The excerpts are, for the most part, taken from the writings and addresses of leading thinkers. Very few selections are made from official records and public documents. The usual subjects are covered in the first six chapters. The last two chapters emphasize the increasing importance, after the Civil War, of economic, sociological, psychological, and international thought on the general trend of American political thinking. Here some appropriate materials are made more accessible. One wonders, however, at the omission of selections from the writings of Theodore Roosevelt, Justice Holmes, Justice Brandies, and some others.

On the whole the book is to be highly commended. Because of the excellent essays mentioned above, together with the well selected source materials, it combines the uses of both a textbook and a "source" book and will no doubt appeal to teachers of political thought on that score as well as because of its general merit.

O. DOUGLAS WEEKS.

The University of Texas.

Case, L. M., *Franco-Italian Relations, 1860-1865. The Roman Question and the Convention of September*. (Philadelphia: University of Pennsylvania Press, 1932, pp. xii, 351.)

Marraro, H. R., *American Opinion and the Unification of Italy, 1846-1861*. (New York: Columbia University Press, 1932, pp. xii, 344.)

These two works study phases of the movement for Italian unification from what might be called the international angle. Mr. Case's monograph, though nominally limited to a history of the negotiations on the Roman question between 1860 and the signing of the Convention of 15 September 1864, is in effect a study of France's rather tortuous Italian policy between the defeats of Austria at Solferino in 1859 and at Sadowa by the Germans in 1866. Mr. Marraro's elaborate study of America's attitude towards the Italian question supplies, from the evidence furnished by contemporary newspapers, magazines, and biographies, ample evidence of the fact that the Italian developments proved almost as confusing to America as to French opinion. Mr. Case has made a study of the reports of the French *procureurs-généraux* to the Ministry of Justice, a manuscript source only recently made available, and this has enabled him to show how carefully the government of Napoleon III endeavored to satisfy, or direct, public opinion on the question in France.

In both countries in fact the complexities of the Italian situation prevented any wholehearted sympathy with the cause of Italian nationalism. Both countries were touched to a considerable extent by the sentimental and idealistic side of the movement, but considerations of religion and of national self interest soon intervened. In America, as in France, the policy

of the papacy created profound differences of opinion; in France the political, and in America the economic, possibilities of the situation, were never lost sight of.

Both authors have been able to glean much that is new from an apparently overworked field. Mr. Case's work will no doubt be of greater direct value to the student of Italian history, as his work is based largely on manuscript materials from the French *archives nationales* and archives of the ministry of foreign affairs. He has added an exceptionally well planned and well commented bibliography.

W. N. MEDLICOTT.

The University of Texas.

Terpenning, Walter A., *Village and Open Country Neighborhoods*. (New York: The Century Company, 1931, pp. xxiv, 493.)

Dr. Terpenning considers the rural group not so much as a locality or geographical unit as from the functional standpoint of the primary group after the fashion of Professor Cooley. To him the family, the play group, and the small neighborhood characterized by limited area and intimate face to face personal contacts are of greater importance in social organization and social control than the more impersonal, less clearly defined, and more complex community group. The place to begin the herculean task of exercising constructive social control is in the guarding and reorganization of the rural neighborhood as a primary group. Writing distinctly from the psychological or pedagogical approach, Professor Terpenning draws his inspiration first from the American neighborhood, and proceeds thence to the Swiss Commune, the English Parish, the German Dorf, the French Commune, the Italian Commune, the Irish Neighborhood, the Danish Sogn, and the Russian Mir. He says very little about Medieval and ancient neighborhoods and less about those of peoples of rude culture. He limits himself almost entirely to a study of conditions which may be observed in traveling over contemporary Europe and the United States.

The book has two defects, namely, (1) its scope is so broad that it almost defies incorporation into a single volume, and (2) the materials are taken from many countries so that it represents largely a collection of discrete case studies. This, however, is not meant as a disparagement, but simply as a citation of some of the apparent difficulties under which the author labored. The value of the study is first of all pedagogical. It performs a distinct service in the teaching of rural sociology in institutions where teaching forces are limited and where library facilities are meager. The author has digested a vast body of material which he has made easily accessible to the student and the teacher with many hours of classroom work per week. To the research worker the chief value consists of a vast number of suggested problems which sooner or later will require investigation. The social worker and the rural neighborhood leader are afforded valuable counsel and recommendations regarding some of the rural problems which are pressing their claims for attention at the present time. O. D. DUNCAN.

Oklahoma Agricultural and Mechanical College.

Sanderson, Dwight. *The Rural Community*. (Boston: Ginn and Company, 1932, pp. x, 723.)

This book represents an attempt to show by description and comparison the development of the rural community from the beginning to the present



day. To this end the author has collected a large amount of information concerning rural peoples in nearly every part of the world. Their customs, occupations, their forms of organization, and other social characteristics are given to the reader in considerable detail. The materials are grouped in such a way as to show the chronological succession of the various stages through which the rural community has passed in the process of arriving at its present form.

Much space is devoted to the treatment of primitive peoples. This may be justifiable in view of the inescapable fact that practically all primitive life may be regarded as rural, but it gives to this phase of the study what seems to the reviewer a disproportionate prominence. A conception of the rural community could not arise before the urban community appeared, against which the former could be seen by contrast. One may doubt the value of projecting so far back into cultural history an idea which is at home only in comparatively high civilizations. And in view of this observation, it may be noted that the study has treated too briefly the rural life of ancient Greece and Rome. Both of these countries developed city life to a high degree and consequently presented conditions for the appearance of rural communities sufficiently like those of the present to offer opportunity for valuable comparisons. It is to be regretted that the author neglected this opportunity.

The book is a most excellent piece of work in spite of the misplaced emphasis. The materials are interesting and informative. Numerous illustrations serve to clarify the exposition and to add attractiveness to the volume. Its wide range and carefully chosen detail will give it a permanent place among the source books for study of the rural community.

CARL M. ROSENQUIST.

The University of Texas.

#### BOOK NOTES

*Workmen's Compensation and Automobile Liability Insurance in Virginia*, by Charles N. Halvey and William H. Wandel (New York: The Century Company, 1931) is a study of the actuarial problems of two types of casualty insurance, one already widely adopted and the other much discussed as a means of control for the prevalent losses through automobile accidents. The primary aim of the discussion is to point out the analogies between the two types especially as to the advisability of state compulsion and control in each case. The study of workmen's compensation analyzes carefully the law of Virginia considering the inclusions and the exclusions from coverage of the workers of the state. The method of rate fixing is thoroughly discussed including the problems of expense loading. Coverage of occupational diseases under the workmen's compensation law is debated and is followed by a syllabus of arguments both for and against such inclusion under either specific or blanket coverage. The part of the state in the control of the operation of workmen's compensation and the place of state funds are discussed. The discussion of automobile casualty insurance follows the same general outline. Since there is no requirement for compulsory insurance of this type in Virginia, the review of methods of ratemaking covers a larger field. A review of the safety and responsibility situation in Virginia is followed by a comparison of the nature of the two types of insurance and their

fitness for state control. The book is a careful and scholarly piece of work and should be valuable to the person who is interested in actuarial problems of rate making or the problems of social insurance.

R. A. A.

The *Letters of Sarah Byng Osborn* (Stanford University Press, 1930, pp. xix, 148) is the second publication in the Stanford Miscellany. Ninety-three letters are included in the collection. Though this age knows little or nothing about the writer of these letters, and though she was probably not influential when living, there is something interesting, a certain verve, that persists throughout the entire series. Being a part of the old landed Whig aristocracy, she reveals an acute understanding of the diminishing influence which her party was exerting upon the governmental affairs of Great Britain. Yet, with all her political acumen, she can offer no program except destructive criticism; there exists no longer a proper respect for political ability, i.e., for the Whig leadership. The letters are valuable for other reasons. They offer a surreptitious glance at the unhappy problem of the aristocracy in maintaining respectable country estates. Her comments on newly-consummated matrimonial contracts invariably center about the amount of money that has been settled upon the couple. Moreover, there is a fine cleverness and wit in her writings. For instance, in speaking of the elder Pitt, she says: "Pitt has the reversion of Lady Grandison's £9,000 a year, if young Villiers, her son, dies under age. He is inclined to be wild, and has not had the small pox, and Pitt is lucky. Therefore everyone concludes the boy is to die." (p. 109.) Her sly little bits of advice to her grandson are charming examples of discretion. The letters date from 1721 to 1773.

C. A. M. E.

Barck, Oscar Theodore, Jr., *New York City During the War for Independence*. (New York: Columbia University Press, 1931, pp. 267.) The strategic position of New York City on the Atlantic seaboard made its history quite different from that of other places during the Revolutionary War. Occupied by British troops for the greater part of the War, this city witnessed a great concentration of Loyalists during the period of occupation, and saw at the close of the War the exodus of these same Loyalists upon the triumphal entry of the American victors. In an attempt to show the many vicissitudes which the city underwent from 1776 to 1783, Dr. Barck has delved into a vast field of primary sources and has succeeded well in presenting us a picture of the suffering of the inhabitants during this trying period, the many and serious problems which they faced, the sacrifices endured for the sake of a possible victory, the mistakes of the British military officials, and the sad exodus of the Loyalist inhabitants after the surrender of Cornwallis.

J. A. B.

Chateaubriand's *Atala* (Stanford University Press, 1930, pp. 114), edited by William Leonard Schwartz, is the first book in the Stanford Miscellany. Through the publication of this series, it is intended to make available in the English language the less known works of foreign scholars. *Atala* was first published in 1801. In the following year, Caleb Bingham, of Boston, brought out an English translation. Two other English translations were published in England in 1801 and 1802, respectively. Though Bingham, in

his translation, deliberately deleted passages that he believed anathema to Puritan standards of literature, Professor Schwartz has selected this edition as a basis for the new publication. He corrects the earlier text by additional footnotes. The material deleted in the Bingham expurgations appear rather innocuous to the modern reader, but it reveals succinctly the influence which Puritanism exerted upon American literature during the early Nineteenth Century. For the political theorist, *Atala* remains of importance, in that it offers concrete evidence of the general search for the state of nature. And even though Chateaubriand was far from accurate in his description of life among the American Indians, it is scarcely less valuable because of that fact.

C. A. M. E.

Walter Noble Burns' *The Robinhood of El Dorado* (New York: Coward-McCann, 1932, pp. 304) is a scintillating study of California gold-rush days and features the activities of Joaquin Murietta, the legendary Captain Kidd of that country. Written in easy journalistic style, it is readily readable and informative. A few historical inaccuracies have crept in—such as the reference to Stephen Field as the chief justice of the United States Supreme Court (p. 125)—but they, by no means, destroy the value of the volume. The author has literally soaked himself in the newspaper and other local materials of the period, and, as a result, the discussion is a slashing description of a boom society. Particularly engrossing are his stories of early justice of the peace courts there. Boom periods produce informal governments, and the transition to stable and settled legal codes is a slow and painful process. The author has included here a wealth of material that depicts that process in California. Concerning the chivalrous desperado, Murietta, the author paints rather lurid and blood-curdling scenes, and he makes no attempt to separate the coin from the counterfeit in the mass of rumors and legends featuring that dashing, if effective, figure.

C. A. M. E.

*Economics* by Frank Tracy Carlton (Boston: D. C. Heath and Company, 1931, pp. 367), is an elementary textbook intended for a semester course. It has, in the opinion of the reviewer, no claim to distinction. Like many writers of elementary texts in economics, the author is divided in his allegiance, and the result is a hybrid of some superficial treatment of economic theory and a great deal of discussion of institutional factors and forces. It is a question whether, if the theory of value and price is to be discussed at all, a treatment covering only nine pages is adequate for the most elementary textbook. The viewpoint of the author is evolutionary, and he calls attention to some social problems not commonly considered in elementary courses. One has a feeling that a more thorough analytical treatment of some questions, notably of the protective tariff, might be more valuable than a mention of many and various problems.

R. A. A.

*Essays on Research in the Social Sciences* (Washington: The Brookings Institution, 1931, pp. 194) consists of a series of papers presented in a general seminar conducted by the Committee on Training of the Brookings Institution during 1930 and 1931. There are ten papers in all, and they are concerned with an attempt to define "science," to determine the trend of the social sciences, to set forth the general problems of research in the social

sciences, to estimate the possibilities of social science as a "science," to appraise the developments of methods in Economics, Political Science, and Law, and to consider the contributions of Psychology and History to the general problem. The contributors are: W. F. G. Swann, Walter Wheeler Cook, Charles A. Beard, John Maurice Clark, Karl N. Llewellyn, Madison Bentley, Arthur M. Schlesinger, William F. Ogburn, and William I. Thomas.

O. D. W.

Robert Bruce Brinsmade's pamphlet, *What's the Use of Working* (Mexico City: privately printed, pp. 18), is another echo from the Foster and Catchings theory of the business cycle. Although the author does not reveal a conversance with the writings of J. A. Hobson, the same idea is to be found there. Brinsmade objects strenuously, and with some show of rationality, that over-saving is the real cause of the business depression. To him, monopoly produces these depressions, and most of all he objects to corporate monopoly. As a way out, he advises the installation of proportional representation and the adherence to the philosophy of Henry George. It is not a new thesis; it is only an application of old principles to the present situation; and it is accomplished in a manner far from scholarly and with little force.

C. A. M. E.

The Cambridge University Press has recently (1931) brought out the sixth edition of Mr. W. H. Woodward's *Short History of the Expansion of the British Empire*, which was published originally in 1899. The student will find that the book, long known as a first class brief treatise on the development of the Empire, has been changed in no important particular except that it has been brought down to date, and that it remains therefore a quite usable handbook on the subject with which it deals.

R. C. M.